UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	)	2:13-cr-00232-BMS-1
	)	September 15, 2014
vs.	)	
	)	9:39 p.m.-3:56 p.m.
ANTHONY ROBINSON,	)	Philadelphia, PA

CRIMINAL JURY TRIAL (DAY 1)
BEFORE THE HONORABLE BERLE M. SCHILLER
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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I N D E X

GOVERNMENT'S WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
Gino Andracchio	111	140	153	
Timothy Auty	154	159	171	172
Mark Flacco	175	191	205	
Ezekiel Logan	207	222	229	

DEFENDANT'S WITNESS

N/A

E X H I B I T S

NO.	IDENTIFICATION	RECEIVED
Government’s:		
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3	Sneakers	119
1	CD	121
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P R O C E E D I N G S

(The following transcript contains indiscernibles during the voir dire portion due to a constant humming in the microphones/audio recording as well as parties not utilizing microphones)

THE CLERK: All rise.

THE COURT: Good morning.

MS. LINEHAN: Good morning, Your Honor.

MS. SCOTT: Good morning.

THE COURT: All right. Please be seated. This is the United States versus Anthony Robinson. The jurors can come up in about ten minutes. So you each have copies of draft instructions. I urge you to read them sometime today and tonight so we can discuss them tomorrow morning. I don't have anything at 8:30 tomorrow, do I?

THE CLERK: No.

THE COURT: Good. 8:30 tomorrow morning we'll have a conference about the jury instructions. All right.

Are there any issues you want to discuss now?

MS. LINEHAN: Your Honor, we just have the outstanding Rule 609 motion.

THE COURT: On what?

MS. LINEHAN: It's a rule -- the government filed a motion in limine to --

THE COURT: Permit --

MS. LINEHAN: -- permit use of one of client's prior --

THE COURT: The last --

MS. LINEHAN: -- convictions.

THE COURT: -- carjacking, right?

MS. LINEHAN: That's correct, Your Honor.

THE COURT: And -- well, if he takes the stand what's your argument?

MS. LINEHAN: My argument, Your Honor, is just in general that the Court has the discretion to exclude evidence that's more prejudicial than probative and beyond what is submitted in the written briefs.

THE COURT: All right.

MS. LINEHAN: I don't have any additional argument.

THE COURT: All right. I'm denying that motion.

All right. That -- that's the only prior conviction that I'll allow unless Mr. Robinson takes the stand and somehow opens the door to anything else. All right.

MS. LINEHAN: Yes, Your Honor.

THE COURT: Any other questions, comments?

MS. SCOTT: I don't believe there are any other outstanding issues.

THE COURT: All right. Good. Now you got in my instructions I covered a water front. There are some instructions that probably won't be necessary, so that's what you need to tell me tomorrow so we can -- in the final draft I can take that material out. Okay.

You have a list of witnesses that you're going to call, potential witnesses?

MS. SCOTT: Your Honor, I can submit that. They're all police officers and I can --

THE COURT: Are they the same ones that --

MS. SCOTT: -- give that to Your Honor --

THE COURT: Are they the same ones that the government is going to --

MS. SCOTT: Your Honor, they are -- I think they are one or two in addition to what the --

THE COURT: Okay.

MS. SCOTT: -- government may call and I can give the Court and the government, of course --

THE COURT: Well, because when the jury is up here, as you know --

MS. SCOTT: Yes, Your Honor.

THE COURT: -- what I do is I have you speak to the jurors. I ask you to tell them who your prospective witnesses are in case they know them. All right. So have your -- an idea of who you're going -- intend to call.

MS. LINEHAN: Your Honor, our witnesses are listed in our proposed voir dire.

THE COURT: Well, but you're still going to have to tell the --

MS. LINEHAN: Certainly.

THE COURT: -- prospective jurors just in case.

MS. LINEHAN: Certainly.

THE COURT: Okay.

MS. LINEHAN: All right.

THE COURT: Now opening arguments, what do you need, ten minutes, 15 minutes?

MS. SCOTT: Ten at the most.

THE COURT: Ten. Ten minutes.

MS. LINEHAN: That's fine, Your Honor.

THE COURT: Okay. And anything else that I should cover?

MS. SCOTT: Nothing else from the defense's perspective.

THE COURT: Okay. Is your witness -- is your client going to testify, do you know yet?

MS. SCOTT: Your Honor, I don't believe so at this time, but, of course, things could change.

THE COURT: Okay. All right.

MS. LINEHAN: Your Honor, there was one matter and I could certainly address it if the time comes, but the government has reviewed and provided to defense the jail recordings of the defendant having conversations with his family member.
If the defendant testifies and if he says something in his testimony that is inconsistent with what he said in those recordings, it would be at that time that the government would ask to play those recordings in rebuttal.

The reason why I didn't do a Starks motion, Your Honor, is because I have no way of knowing what the defendant will say if he testifies, but there are some statements made in the recordings that might be inconsistent with what the government anticipates the defendant would say about this crime.

And I have those prepared to play.

THE COURT: Do you have the transcripts?

MS. LINEHAN: I do not, Your Honor, but they're about four calls and they are very short.

THE COURT: Well, then, it should be easy to get a transcript so that Ms. Scott can have it --

MS. LINEHAN: Well, then I'll have those --

THE COURT: -- to see whether or not --

MS. LINEHAN: -- prepared tonight.

THE COURT: -- there's even an issue there.

MS. LINEHAN: Understood, Your Honor. I can have those prepared tonight.

THE COURT: Good.

All right. Chris, I guess we can go get the jurors.

And you can move your chairs around to -- now as you know -- Ms. Scott knows. I don't know if you know. I conduct the voir dire. Are you aware that I conduct the voir dire?

MS. LINEHAN: Yes, sir.

THE COURT: And if the people raise

their hands, we'll bring them up here and you're up here and if you want to follow up any of their responses you can do that up here.

MS. LINEHAN: Thank you, Your Honor.

THE COURT: Okay, Chris.

(Recess taken at 9:44 a.m.; resume at 10:21 a.m.)

(Prospective jurors present)

THE CLERK: Ladies and gentlemen, please rise and raise your right hand.

PROSPECTIVE JURORS SWORN

THE CLERK: Thank you. Please be seated.

(Pause)

THE CLERK: All rise. The United States District Court for the Eastern District of Pennsylvania is now in session. The Honorable Berle M. Schiller presiding.

THE COURT: Hey, good morning, everybody.

PROPSECTIVE JURORS: Good morning.

THE COURT: Hi. Please be seated.

As you heard I'm Judge Schiller. I was at least five minutes ago so I still am. And you're here because -- as prospective jurors. This is a criminal case and comes before you by reason of an indictment against the defendant, Anthony Robinson. From this panel we will select the jurors who will sit on the jury that will decide this case. We will also select alternate jurors who will be part of this trial and available should one of the regular jurors be unable to continue on the jury.

Under our system of justice the role of the jury is to find the facts of the case based on the evidence presented in the trial; that is, from the evidence seen and heard in court the jury decides what the facts are and then applies to those facts the law that I will give in my instructions to the jury.

My role as the trial judge is to make whatever legal decisions must be made during the trial and to explain to the jury the legal principles that will guide its decisions. This preliminary phase is called voir dire. Voir dire is a phrase from the French and means to speak the truth. I'm going to ask you some questions. You have just sworn to answer them truthfully.

After you answer these questions, then I or the attorneys may ask you a few additional questions. The purpose of the questions is not designed to inquire unduly into your private business, but to openly disclose any bias or subconscious prejudice or predisposition toward the facts of the pending case and to supply information so that the lawyers can make intelligent decisions in excusing jurors.

The exercise of a challenge is no reflection whatsoever on the one excused, but simply means that the lawyer, based on his or her trial experience, his or her knowledge of the case and the answers given in voir dire has decided someone else should sit on the jury. The attorneys are just doing their job when they challenge a juror.

The parties in this case are entitled to a fair and impartial jury that will try the case based on the evidence presented in court during the trial. You should listen to each question very carefully and answer to the best of your ability. If your answer to the question is yes, then raise your hand. If you do not raise your hand the attorneys will assume that your answer is no. If you have any questions or do not understand something, let us know.

I will tell you now that this trial will last through the rest of the week. The attorney who will try the case are here. I'm going to ask them to rise and introduce themselves and their clients.

MS. LINEHAN: Your Honor, I'm Jeanine

Linehan for the United States, and with me at counsel table is Special Agent from the FBI Joseph Carpenter (ph).

MR. CARPENTER: Good morning.

PROSPECTIVE JURORS: Good morning.

MS. SCOTT: Good morning, everybody. My name is Kai Scott. I'm co-counsel here with Ms. Nancy MacEoin and together we represent Anthony Robinson.

THE COURT: Okay. Is anyone personally acquainted with the defendant, Anthony Robinson?

Does any member of your immediate family have any connection with the defendant or any member of the defendant's family?

Do you know any of the attorneys in this case?

I'm going to ask the government to now give you the list of prospective witnesses in the case.

MS. LINEHAN: Your Honor, the government might possibly call Philadelphia Police Officer Patrick Dooley (ph); Philadelphia Police Detective Gino Andracchio; Philadelphia Police Officer Timothy Auty; Joyanah Headen; Philadelphia Police Detective Mark Flacco; Ezekiel Logan; and FBI Special

Agent Joseph Carpenter who is to my left.

THE COURT: And, Ms. Scott, do you have any additions to that list?

MS. SCOTT: Yes, Your Honor. The defense may possibly call as a potential witness Police Officer -- Philadelphia Police Officer Tyrone Winckler; Philadelphia Police Officer Robert Paris; Philadelphia Police Officer Travis Washington; or Philadelphia Police Officer Crystal Bradman (ph).

THE COURT: Does anyone think they know any of the witnesses, the prospective witnesses in this case?

Has anyone served as a juror in a criminal or civil case or as a member of a grand jury either in the federal or state courts, anybody?

Come on up.

Counsel, let me see you up here.

THE CLERK: If you could step right up here, ladies and gentlemen.

(Counsel approached the bench and the following occurred at sidebar):

THE COURT: Good morning.

PROSPECTIVE JUROR 14: Good morning, Your Honor.

THE COURT: Name and number, please.

PROSPECTIVE JUROR 14: (Indiscernible), Number 14.

THE COURT: Okay. You were a grand juror or a jury member of some --

PROSPECTIVE JUROR 14: I was a jury member for a civil case back in the 90s.

THE COURT: Where was that?

PROSPECTIVE JUROR 14: Here.

THE COURT: In Philadelphia.

PROSPECTIVE JUROR 14: Yes.

THE COURT: A civil case?

PROSPECTIVE JUROR 14: Yes.

THE COURT: Now this is a criminal case.

PROSPECTIVE JUROR 14: Okay.

THE COURT: Were you able to reach a verdict?

PROSPECTIVE JUROR 14: Yes, we were.

THE COURT: Was there anything about that case that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 14: No.

THE COURT: Okay. Anyone have any questions?

Have a seat.

(Pause)

THE COURT: Good morning. Name and number, please.

PROSPECTIVE JUROR 10: I'm Jenny Swagger, Number 10.

THE COURT: Okay. You were a juror somewhere?

PROSPECTIVE JUROR 10: Yes. It was a while ago so I'm trying to remember. It was here in Philadelphia. It was a civil case.

THE COURT: Ten years ago?

PROSPECTIVE JUROR 10: That's possible.

THE COURT: Okay. Were you able to reach a verdict?

PROSPECTIVE JUROR 10: Yes.

THE COURT: Is there anything about that experience that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 10: No.

THE COURT: Okay. Have a seat.

(Pause)

THE COURT: Good morning.

PROSPECTIVE JUROR 15: Good morning.

THE COURT: Your name and number, please.

PROSPECTIVE JUROR 15: Tara Griffs (ph), Number 15.

THE COURT: 15?

PROSPECTIVE JUROR 15: Yes.

THE COURT: Okay. You were a juror somewhere?

PROSPECTIVE JUROR 15: Yes. It was here.

THE COURT: What kind of case was it, civil or criminal?

PROSPECTIVE JUROR 15: Criminal.

THE COURT: What kind?

PROSPECTIVE JUROR 15: Carjacking.

THE COURT: Carjacking.

PROSPECTIVE JUROR 15: And it was listed.

THE COURT: And when was that?

PROSPECTIVE JUROR 15: About six years ago.

THE COURT: Six years ago? Were you able to reach a verdict?

PROSPECTIVE JUROR 15: Yes.

THE COURT: Was there anything about that experience that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 15: No.

THE COURT: Okay. Any questions?

MS. LINEHAN: Just one question. You said here in Davenport?

PROSPECTIVE JUROR 15: (Indiscernible) County.

MS. LINEHAN: Okay.

THE COURT: Okay. Have a seat.

(Pause)

THE COURT: Good morning. Name and number, please.

PROSPECTIVE JUROR 16: I'm Debra Wood (ph), Number 16.

THE COURT: Okay. And what -- you were a juror?

PROSPECTIVE JUROR 16: Yes. It was a criminal case.

THE COURT: Criminal case. Was it in federal or state court?

PROSPECTIVE JUROR 16: Federal.

THE COURT: Federal? What was it about?

PROSPECTIVE JUROR 16: Drugs.

THE COURT: Drugs?

PROSPECTIVE JUROR 16: Uh-huh.

THE COURT: Well, this has nothing to do with drugs.

PROSPECTIVE JUROR 16: Okay.

THE COURT: Okay. Was there anything -- were you able to reach a verdict?

PROSPECTIVE JUROR 16: Yes.

THE COURT: Was there anything about that experience that would cause you not to be fair and impartial in this case?

PROSPECTIVE JUROR 16: No.

THE COURT: Okay. Any questions?

MS. SCOTT: No questions.

THE COURT: Have a seat.

(Pause)

THE COURT: Good morning.

PROSPECTIVE JUROR 19: Morning.

THE COURT: Name and number, please.

PROSPECTIVE JUROR 19: Robert Trout (ph), Number 19.

THE COURT: Number 19?

PROSPECTIVE JUROR 19: Yes.

THE COURT: And you were a juror somewhere?

PROSPECTIVE JUROR 19: Twice actually, here in Philly in the late 90s for a civil case and then --

THE COURT: Was that federal or state?

PROSPECTIVE JUROR 19: State.

THE COURT: Okay.

PROSPECTIVE JUROR 19: And then Brooks County in early 2000s for a civil case as well.

THE COURT: Both civil cases.

PROSPECTIVE JUROR 19: Yes.

THE COURT: Were you able to reach a verdict in both cases?

PROSPECTIVE JUROR 19: The first one settled and the second one, yes, we did.

THE COURT: Is there anything about that experience that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 19: No.

THE COURT: Okay. Have a seat.

(Pause)

THE COURT: Good morning.

PROSPECTIVE JUROR 20: Good morning.

THE COURT: Name and number, please.

PROSPECTIVE JUROR 20: Patricia Smiley (ph), 20.

THE COURT: Okay. You were a juror somewhere?

PROSPECTIVE JUROR 20: Here, a bank robbery case.
THE COURT: Bank robbery. And were you able to reach a verdict?
PROSPECTIVE JUROR 20: Yes.
THE COURT: Was there anything about that experience that would cause you not to be fair or impartial in this case?
PROSPECTIVE JUROR 20: No.
THE COURT: Okay. What -- what were -- give me some details about that bank robbery?
PROSPECTIVE JUROR 20: He robbed a bank in University --
THE COURT: Oh, did he and -- just he and (indiscernible)? What did he do?
PROSPECTIVE JUROR 20: I -- it was a long time ago, seven years ago.
THE COURT: So you don't remember?
PROSPECTIVE JUROR 20: I think he did (indiscernible). They gave him some money that had a pack in it with the dye, and so --
THE COURT: Did he threaten anybody?
PROSPECTIVE JUROR 20: I don't believe so.
THE COURT: Okay. Any questions?

MS. SCOTT: No questions.

THE COURT: Okay. Is there anything about that experience that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 20: No.

THE COURT: All right. Have a seat.

(Pause)

THE COURT: Good morning. Name and number, please.

PROSPECTIVE JUROR 22: (Indiscernible), 22.

THE COURT: You were a juror somewhere?

PROSPECTIVE JUROR 22: Here.

THE COURT: In Philadelphia?

PROSPECTIVE JUROR 22: Yes.

THE COURT: Federal Court?

PROSPECTIVE JUROR 22: Yes.

THE COURT: Was it a civil or criminal case?

PROSPECTIVE JUROR 22: It was a civil. It was Philadelphia Bank versus a Florida accounting firm.

THE COURT: And were you able to reach a verdict?

PROSPECTIVE JUROR 22: Yes.

THE COURT: Was there anything about that experience that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 22: No.

THE COURT: Okay. Have a seat.

(Pause)

THE COURT: Good morning.

PROSPECTIVE JUROR 31: Good morning, Your Honor.

THE COURT: Name and number, please.

PROSPECTIVE JUROR 31: John McGetty. My number is 31.

THE COURT: Okay. You were a juror somewhere?

PROSPECTIVE JUROR 31: Yes, in Montgomery County about 25 years ago and in Philadelphia about seven or eight years ago.

THE COURT: What kind of cases were they, civil or criminal?

PROSPECTIVE JUROR 31: Criminal.

THE COURT: Both criminal?

PROSPECTIVE JUROR 31: Yes, Your Honor.

THE COURT: What kind of criminal cases?

PROSPECTIVE JUROR 31: The most recent

one was attempted murder with several weapons charges and that sort of thing.

THE COURT: Okay. And the other one?

PROSPECTIVE JUROR 31: I believe it was (indiscernible). It was robbery and (indiscernible). The victim was (indiscernible).

THE COURT: All right. Was there anything about those -- were you able to reach a verdict?

PROSPECTIVE JUROR 31: Yes.

THE COURT: Both cases?

PROSPECTIVE JUROR 31: In both cases.

THE COURT: Was there anything about that experience that would cause you to not to be fair or impartial in this case?

PROSPECTIVE JUROR 31: No, I don't think so, sir.

THE COURT: Okay.

MS. LINEHAN: Just one case about the Montgomery County case. You said it was a robbery (indiscernible). Do you remember (indiscernible)?

THE COURT: You've got to answer in the --

MS. LINEHAN: (Indiscernible).

PROSPECTIVE JUROR 31: I don't remember

(indiscernible) weapon (indiscernible), but I don't recall what it was. It was in 1989.

MS. LINEHAN: Okay. Thank you.

THE COURT: Anything else?

Okay. Have a seat.

PROSPECTIVE JUROR 31: Thank you.

(Pause)

THE COURT: Good morning. Name and number, please.

PROSPECTIVE JUROR 44: (Indiscernible) Number 44.

THE COURT: 44. You were a juror somewhere?

PROSPECTIVE JUROR 44: Here in Philadelphia.

THE COURT: In Federal Court?

PROSPECTIVE JUROR 44: Yes.

THE COURT: What kind of case was it, civil or criminal?

PROSPECTIVE JUROR 44: (Indiscernible) some possession of an illegal weapon.

THE COURT: Illegal weapon?

PROSPECTIVE JUROR 44: Uh-huh.

THE COURT: Were you able to reach a verdict?

PROSPECTIVE JUROR 44: Yes.

THE COURT: Was there anything about that experience that would cause you not to be fair or impartial?

PROSPECTIVE JUROR 44: No.

THE COURT: What was the illegal weapon?

PROSPECTIVE JUROR 44: It was a gun.

THE COURT: You don't have to whisper it.

PROSPECTIVE JUROR 44: It was a gun.

THE COURT: It was a gun.

PROSPECTIVE JUROR 44: I didn't want to talk too loud.

THE COURT: Well, you don't have to.

PROSPECTIVE JUROR 44: It was a big gun.

THE COURT: It was a big gun. Okay. Any questions?

All right. Were you able to reach a verdict?

PROSPECTIVE JUROR 44: Yes.

THE COURT: Anything about that experience that would you cause you not to be fair or impartial?

PROSPECTIVE JUROR 44: No.

THE COURT: Okay. Have a seat.

(Pause)

THE COURT: Good morning.

PROSPECTIVE JUROR 23: Morning.

THE COURT: Name and number, please.

PROSPECTIVE JUROR 23: Douglas Eggy. I'm -- I think it was 23.

THE COURT: Number 23. And you were a juror somewhere?

PROSPECTIVE JUROR 23: I was in the federal court in a civil case I believe it's about 18 years ago.

THE COURT: A civil case?

PROSPECTIVE JUROR 23: Yes.

THE COURT: Is there anything about -- were you able to reach a verdict?

PROSPECTIVE JUROR 23: No. It was set up -- we set up in Allentown three or four days and settled out -- out of court.

THE COURT: Okay. Anything about that experience that would cause you not to be fair or impartial?

PROSPECTIVE JUROR 23: No.

THE COURT: Okay. Have a seat.

PROSPECTIVE JUROR 23: I just want to -- I don't know if it's appropriate. My wife served on the grand jury here for a year and a half --

THE COURT: Oh, that's all right.

PROSPECTIVE JUROR 23: -- indictments. So I just wanted to --

THE COURT: That has nothing to do with you.

PROSPECTIVE JUROR 23: Okay. I didn't know.

THE COURT: She doesn't tell you what to do, does she?

(Laughter)

PROSPECTIVE JUROR 23: Just wanted to bring up (indiscernible).

(Pause)

THE COURT: Good morning. Your name and number, please.

PROSPECTIVE JUROR 24: Patricia Angeleskey (ph), Number 24. I served at the criminal justice center, I think it was last year. It was a DUI that resulted in the death of someone.

THE COURT: Okay.

PROSPECTIVE JUROR 24: And we did reach --

THE COURT: You did reach a verdict?

PROSPECTIVE JUROR 24: Yes.

THE COURT: Was there anything about that experience that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 24: No, sir.

THE COURT: Okay. Have a seat.

(Pause)

THE COURT: Good morning. Your name and number, please.

PROSPECTIVE JUROR 21: Darryl Gonzalez, Juror Number 21, I believe.

THE COURT: Okay. And you were a juror somewhere?

PROSPECTIVE JUROR 21: Yes. I was called as a juror twice, the first time and a second time in -- not this courthouse, the other one --

THE COURT: City -- city --

PROSPECTIVE JUROR 21: (Indiscernible).

THE COURT: Philadelphia Court?

PROSPECTIVE JUROR 21: Yes.

THE COURT: What kind of case was it?

PROSPECTIVE JUROR 21: The first one was a -- I believe it was a criminal, but I don't remember the second one because I was excused from --

THE COURT: Okay. Well, the first one, what kind of crime was involved?

PROSPECTIVE JUROR 21: I believe it was a -- if I remember correctly it was a drug possession.

THE COURT: Okay. Anything -- were you able to reach a verdict?

PROSPECTIVE JUROR 21: Yes.

THE COURT: Was there anything about that experience that would cause you not to be fair or impartial?

PROSPECTIVE JUROR 21: No.

THE COURT: Good. Have a seat.

(Pause)

THE COURT: Have you or has any member of your --

Don't go away.

(Laughter)

THE COURT: Get over here. I was just getting to like you. Come over here.

(Judge addresses all prospective jurors):

THE COURT: Have you or has any member of your family ever been the victim of a crime or participated in a criminal case as a complainant, a witness for the government or in some other capacity on behalf of the prosecution?

Come on up.

(Pause)

THE COURT: Good morning.

PROSPECTIVE JUROR 27: Good morning.

THE COURT: Name and number, please.

PROSPECTIVE JUROR 27: Kelly Hill, 27.

THE COURT: Come on up to that microphone. It's not going to bite.

PROSPECTIVE JUROR 27: Kelly Hill, 27.

THE COURT: 27?

PROSPECTIVE JUROR 27: Yes.

THE COURT: And you --

PROSPECTIVE JUROR 27: I was a victim of a crime.

THE COURT: What kind of crime?

PROSPECTIVE JUROR 27: I was a bank teller (indiscernible) and I was robbed.

THE COURT: Okay. Did you have to go to court?

PROSPECTIVE JUROR 27: No, because they plea-bargained and I never had to go in.

THE COURT: Was there anything about that experience that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 27: I don't think

so.

THE COURT: Well, the bank robbery, you were the teller?

PROSPECTIVE JUROR 27: I was the one that was robbed, yeah.

THE COURT: Well, how did he do it, or she?

PROSPECTIVE JUROR 27: He came in and he had dark glasses and a big jacket on, and he came right to my teller station, passed the bag to me and said, give me your 20s -- your 20s, 100s and 50s.

THE COURT: Did he use a weapon, though?

PROSPECTIVE JUROR 27: I don't know if had one. He never presented it.

THE COURT: Okay. Anything else?

MS. SCOTT: Did you actually (indiscernible)?

PROSPECTIVE JUROR 27: Yes. I had --

MS. SCOTT: (Indiscernible).

PROSPECTIVE JUROR 27: No. I never (indiscernible).

MS. SCOTT: (Indiscernible)?

PROSPECTIVE JUROR 27: No.

THE COURT: All right. Have a seat.

(Pause)

THE COURT: Good morning. Name and number, please.

PROSPECTIVE JUROR 28: Sy Campolone (ph), Number 28.

THE COURT: Okay.

PROSPECTIVE JUROR 28: (Indiscernible) police officer.

THE COURT: You were? Okay. Well, I'm going to be asking you questions after these so you don't have to come up. You might as well answer them all now. All right.

This case involves two robberies allegedly.

PROSPECTIVE JUROR 28: Uh-huh.

THE COURT: Would you be able to fair and impartial?

PROSPECTIVE JUROR 28: Yes.

THE COURT: Do you have any questions?

MS. SCOTT: How long were you a police officer?

PROSPECTIVE JUROR 28: (Indiscernible).

MS. LINEHAN: (Indiscernible).

PROSPECTIVE JUROR 28: Twelve years.

MS. SCOTT: And what's the highest

ranking you obtained?

PROSPECTIVE JUROR 28: Patrol.

MS. SCOTT: In which district?

PROSPECTIVE JUROR 28: I retired from the Second.

MS. SCOTT: (Indiscernible).

PROSPECTIVE JUROR 28: Huh?

MS. SCOTT: (Indiscernible).

PROSPECTIVE JUROR 28: Uh-huh.

MS. SCOTT: I don't have any other questions.

THE COURT: You can be fair and impartial?

PROSPECTIVE JUROR 28: Yes.

THE COURT: Okay. Have a seat.

(Pause)

THE COURT: Good morning, again.

PROSPECTIVE JUROR (Unidentified): Sorry. (Indiscernible) is my sister.

THE COURT: Your sister was --

PROSPECTIVE JUROR (Unidentified): My sister --

THE COURT: -- shot in the head?

PROSPECTIVE JUROR (Unidentified): (Indiscernible).

THE COURT: Where?

PROSPECTIVE JUROR (Unidentified): In Perry County.

THE COURT: Perry County?

PROSPECTIVE JUROR (Unidentified): In 2006.

THE COURT: Okay. Did you have to testify anywhere about it?

PROSPECTIVE JUROR (Unidentified): No.

THE COURT: Did they ever capture the person who did the shooting?

PROSPECTIVE JUROR (Unidentified): She was (indiscernible).

THE COURT: It was a she?

PROSPECTIVE JUROR (Unidentified): It was a she.

THE COURT: Any questions? You didn't have to testify at the trial?

PROSPECTIVE JUROR (Unidentified): No.

THE COURT: Okay. Thank you. Have a seat. (Indiscernible) right on the spot.

(Pause)

THE COURT: Hello again. Hello.

PROSPECTIVE JUROR 31: Hello, Judge. If I heard the question right --

THE COURT: Again, let me have your name and number.

PROSPECTIVE JUROR 31: John McGahey, Number 31.

THE COURT: Okay.

PROSPECTIVE JUROR 31: About twelve years ago my daughter had her purse snatched in a restaurant. Credit cards were taken. We went to District Court (indiscernible) --

THE COURT: Right.

PROSPECTIVE JUROR 31: I think it was a hearing and the attorneys decided not to do it, but to take it to the county (indiscernible).

THE COURT: Did she ever -- did your daughter ever have to testify --

PROSPECTIVE JUROR 31: No.

THE COURT: -- anywhere?

PROSPECTIVE JUROR 31: No, sir.

THE COURT: Is there anything about that experience that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 31: No, sir.

THE COURT: Okay. Have a seat.

(Pause)

THE COURT: Good morning. Name and

number.

PROSPECTIVE JUROR 32: Jennifer Coleman, 32.

THE COURT: 32, okay.

PROSPECTIVE JUROR 32: I was a witness to a robbery.

THE COURT: What kind of robbery?

PROSPECTIVE JUROR 32: Robbed a house (indiscernible).

THE COURT: You were a witness to --

PROSPECTIVE JUROR 32: I witnessed it. Yeah.

THE COURT: Did you live next door or was it in your house or --

PROSPECTIVE JUROR 32: No. I was visiting someone and I saw someone robbing someone's house.

THE COURT: Oh, okay.

PROSPECTIVE JUROR 32: And I do have a nephew right now that's being accused of underage sex.

THE COURT: Underage?

PROSPECTIVE JUROR 32: Sexual --

THE COURT: Sexual activity. How old is he?

PROSPECTIVE JUROR 32: He is 23.

THE COURT: 23. He's an adult.

PROSPECTIVE JUROR 32: Yeah, but he's --- was with someone under age.

THE COURT: Oh, okay. Anything about those experiences that would cause you not to be fair or impartial in this case? No? You have to answer --

PROSPECTIVE JUROR 32: I would be fair.

THE COURT: Okay. Any questions?

PROSPECTIVE JUROR 32: The only problem is I'm not going to be here. I'm going on a -- I'm leaving Thursday on a trip.

THE COURT: Where are you going?

PROSPECTIVE JUROR 32: To North Carolina to see my ailing parents.

THE COURT: Okay. All right. Go back down to the second floor and tell them you've been excused.

PROSPECTIVE JUROR 32: Okay. I'm sorry.

(Pause)

PROSPECTIVE JUROR 35: (Indiscernible).

THE COURT: What's that?

PROSPECTIVE JUROR 35: Can we just go over (indiscernible)?

THE COURT: Come on. Name and number,

please.

PROSPECTIVE JUROR 35: (Indiscernible), Number 35.

THE COURT: 35. Okay. So I'm not sure if I answered your question right, but I do know -- my daughter was a victim of --

THE COURT: (Indiscernible). You're okay.

PROSPECTIVE JUROR 35: Okay.

THE COURT: You're all right.

PROSPECTIVE JUROR 35: She was a victim of robbery.

THE COURT: Robbery? Where was that?

PROSPECTIVE JUROR 35: Where was that, in Philadelphia.

THE COURT: I mean, was it on the street?

PROSPECTIVE JUROR 35: Yes, on the street. Yes. Yes.

THE COURT: Was there a weapon involved?

PROSPECTIVE JUROR 35: Yes, at gunpoint. Yes.

THE COURT: At gunpoint?

PROSPECTIVE JUROR 35: Yes.

THE COURT: All right. Did they ever capture the person?

PROSPECTIVE JUROR 35: They did, but not -- it was later. This was like (indiscernible) about -- probably about five or six years (indiscernible).

THE COURT: Did she have to identify him?

PROSPECTIVE JUROR 35: No. No.

THE COURT: Was there anything about that experience that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 35: No.

MS. SCOTT: You said your daughter was robbed. It was at gunpoint?

PROSPECTIVE JUROR 35: At gunpoint. Yes.

MS. SCOTT: Do you know (indiscernible)?

PROSPECTIVE JUROR 35: No. She wasn't --

MS. SCOTT: (Indiscernible).

PROSPECTIVE JUROR 35: No. She did report it to the police, but -- and I guess she went through photos and things like that, but she never had to -- she was never called. It was like a year or so later. This person did a series of these things and eventually this person was stopped.

MS. SCOTT: (Indiscernible).

PROSPECTIVE JUROR 35: No.

MS. SCOTT: (Indiscernible).

PROSPECTIVE JUROR 35: No. No.

THE COURT: All right. Thank you. Have a seat.

Now what do you want to say about this witness now?

MS. SCOTT: (Indiscernible).

THE COURT: Do you have anything to say?

MS. LINEHAN: Yes, Your Honor. I object to him being struck.

THE COURT: I'm not going to strike him. You can use your peremptories if you want.

THE COURT: Do you got a twin here or what?

(Laughter)

PROSPECTIVE JUROR 20: Number 20. I witnessed a hit and run accident in (indiscernible) to identify him (indiscernible).

THE COURT: Was there anything about

that experience that would cause you not to be fair and impartial in this case?

PROSPECTIVE JUROR 20: No.

THE COURT: Questions?

MS. SCOTT: No questions.

THE COURT: All right. Have a seat.

(Pause)

THE COURT: Good morning.

PROSPECTIVE JUROR 17: My name is (indiscernible), Number 17.

THE COURT: Number 17.

PROSPECTIVE JUROR 17: Yes. I've -- my husband and I (indiscernible).

THE COURT: This is Pennsylvania.

PROSPECTIVE JUROR 17: I know.

THE COURT: This was about 20 years ago?

PROSPECTIVE JUROR 17: Uh-huh. Yeah, 20 (indiscernible) years ago.

THE COURT: Don't ever borrow my car.

PROSPECTIVE JUROR 17: My brother was borrowing my car and it was stolen. How's that for luck?

THE COURT: So did they ever capture the person?

PROSPECTIVE JUROR 17: You know, I think they did (indiscernible).

THE COURT: All right. So that was --

PROSPECTIVE JUROR 17: But I was not being (indiscernible).

THE COURT: Was there anything about those experiences that would cause you not to be fair and impartial in this case?

PROSPECTIVE JUROR 17: No.

THE COURT: Okay. Have a seat.

(Pause)

PROSPECTIVE JUROR 16: (Indiscernible).

THE COURT: What's that?

PROSPECTIVE JUROR 16: (Indiscernible), Number 16. My husband's car was broken into, things were taken out. And when we were on vacation our residence was broken into and things were taken.

THE COURT: When was that?

PROSPECTIVE JUROR 16: One was about seven years ago and one was about five years ago.

THE COURT: Did they ever find the person who did it?

PROSPECTIVE JUROR 16: No.

THE COURT: Was it -- so you were never called to testify?

PROSPECTIVE JUROR 16: No.

THE COURT: Was there anything about that experience that would cause you not to be fair and impartial in this case?

PROSPECTIVE JUROR 16: No.

THE COURT: Okay. Have a seat.

(Pause)

THE COURT: Good morning.

PROSPECTIVE JUROR 6: I'm Number 6 (indiscernible), and I don't know if these count or not, but I thought they may. In the early 1970s I was called to testify in a trial against a person. They traveled with somebody who was accused of stealing a car.

THE COURT: And you test --

PROSPECTIVE JUROR 6: And he was in (indiscernible).

THE COURT: It's criminal, a car theft case. Okay. So did you testify?

PROSPECTIVE JUROR 6: Yes, I did.

THE COURT: Let me ask you this, was there anything about that experience that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 6: No. One other thing, though. In 2006 I was brought to court in (indiscernible), Pennsylvania, and I think it was a pretrial or a deposition --

THE COURT: Right.

PROSPECTIVE JUROR 6: -- for somebody who hit my car in a hit and run, but it never got to the point where I had to actually give a statement because I think he pled guilty. He had a bunch of other charges against him as well.

THE COURT: Okay. Anything about that experience that would cause you --

PROSPECTIVE JUROR 6: No.

THE COURT: -- not to be fair?

PROSPECTIVE JUROR 6: No, sir.

THE COURT: Okay. Good. Have a seat.

(Pause)

(Judge addresses all prospective jurors):

THE COURT: Have you or has any member of your family ever been charged with a criminal offense or ever participated in a criminal case as a defendant, witness for the defense, or in any other capacity for the defense?

Come on up.

(Pause)

THE COURT: Good morning.

PROSPECTIVE JUROR 5: Morning.

THE COURT: Name and number, please.

PROSPECTIVE JUROR 5: My name is (indiscernible), Number 5, I think.

THE COURT: Okay. Yes.

PROSPECTIVE JUROR 5: Your Honor --

THE COURT: Participated as a witness for the defense or you were a victim, what was it?

PROSPECTIVE JUROR 5: I was charged for it.

THE COURT: You what?

PROSPECTIVE JUROR 5: I was charged for --

THE COURT: For what?

PROSPECTIVE JUROR 5: -- gun violence.

THE COURT: For gun violence?

PROSPECTIVE JUROR 5: Yeah.

THE COURT: What kind of violence?

PROSPECTIVE JUROR 5: When I was in school --

THE COURT: Right.

PROSPECTIVE JUROR 5: -- about 23 years ago --

THE COURT: Right.

PROSPECTIVE JUROR 5: -- I -- a guy came through (indiscernible) with my wife and shoot in the floor to scare him (indiscernible).

THE COURT: What kind of store was it?

PROSPECTIVE JUROR 5: A grocery store.

THE COURT: So you owned a grocery store?

PROSPECTIVE JUROR 5: Right.

THE COURT: And you had a gun in the cash register or whatever?

PROSPECTIVE JUROR 5: No. I was in the (indiscernible).

THE COURT: Oh.

PROSPECTIVE JUROR 5: Yeah.

THE COURT: And you came out with a gun?

PROSPECTIVE JUROR 5: No. I was shooting the floor --

THE COURT: Oh, you shot?

PROSPECTIVE JUROR 5: -- for -- yeah.

THE COURT: All right.

PROSPECTIVE JUROR 5: (Indiscernible) area towards him (indiscernible) aim it to the floor to scare him off.

THE COURT: Did he get scared?

PROSPECTIVE JUROR 5: Yeah. He ran off.

THE COURT: Yeah. All right.

PROSPECTIVE JUROR 5: I got charged.

THE COURT: You got charged?

PROSPECTIVE JUROR 5: Yeah.

THE COURT: Were you convicted?

PROSPECTIVE JUROR 5: Yeah.

THE COURT: Of what?

PROSPECTIVE JUROR 5: (Indiscernible) use of the gun, I guess.

THE COURT: Okay. Is there anything about that? Did you ever have to go to jail?

PROSPECTIVE JUROR 5: No, I got probation for five years.

THE COURT: Five years probation. Was there anything about that experience that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 5: I think so. Yeah.

MS. SCOTT: You think so? You could be fair and impartial or you think you would have a problem with being fair and impartial?

THE COURT: You would have a problem or you would be fair?

PROSPECTIVE JUROR 5: I wouldn't be fair.

THE COURT: You wouldn't be fair? It would not be fair because the person had a -- was assaulting your wife?

PROSPECTIVE JUROR 5: Right.

THE COURT: Okay. You're excused. Go back down to the second floor.

PROSPECTIVE JUROR 5: Is (indiscernible).

(Pause)

THE COURT: Hi again.

PROSPECTIVE JUROR 27: Hi. Number 27.

THE COURT: 27. Okay.

PROSPECTIVE JUROR 27: My husband (indiscernible). He was charged with robbery (indiscernible). He robbed houses.

THE COURT: He robbed houses?

PROSPECTIVE JUROR 27: Yes.

THE COURT: Was he ever confronted by people who lived in the houses at the time?

PROSPECTIVE JUROR 27: We never discussed it (indiscernible) got out of prison (indiscernible).

THE COURT: You mean after he was in prison?

PROSPECTIVE JUROR 27: Yeah.

(Indiscernible).

THE COURT: Okay.

PROSPECTIVE JUROR 27: (indiscernible). It's a halfway house and (indiscernible).

THE COURT: Anything about that experience that would cause you not to be fair and impartial in this case?

PROSPECTIVE JUROR 27: I don't think so. No.

THE COURT: Questions?

Okay. Have a seat. Thank you.

(Pause)

THE COURT: Good morning.

PROSPECTIVE JUROR (Unidentified): Annemarie Addleman Zimmerman.

THE COURT: Okay.

PROSPECTIVE JUROR (Unidentified): My husband is a retired police officer (indiscernible) and has been involved in many court cases.

THE COURT: Many cases? And you didn't sit through them, did you?

PROSPECTIVE JUROR (Unidentified): I did not sit through them.

THE COURT: All right. Anything about that experience that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR (Unidentified): Prior to his retirement he was involved in a shooting. He was the officer that shot someone, but I did not -- I wasn't at the trial or anything.

THE COURT: He was charged with shooting --

PROSPECTIVE JUROR (Unidentified): No, he was not.

THE COURT: Okay.

PROSPECTIVE JUROR (Unidentified): No. But --

THE COURT: All right.

PROSPECTIVE JUROR (Unidentified): -- involved in a shooting.

THE COURT: Well, this doesn't involve a shooting.

PROSPECTIVE JUROR (Unidentified): I'm sorry.

THE COURT: It does not involve a shooting.

PROSPECTIVE JUROR (Unidentified): Okay.

THE COURT: Any questions?

MS. SCOTT: (Indiscernible).

PROSPECTIVE JUROR (Unidentified): (Indiscernible).

MS. SCOTT: (Indiscernible).

PROSPECTIVE JUROR (Unidentified): (Indiscernible).

THE COURT: All right. Have a seat.

(Pause)

THE COURT: Good morning.

PROSPECTIVE JUROR 34: Good morning, Your Honor.

THE COURT: Name and --

PROSPECTIVE JUROR 34: 34, (indiscernible).

THE COURT: Okay.

PROSPECTIVE JUROR 34: I have a family member that was -- is a Philadelphia Police Officer that was charged in a criminal case and the whole experience actually left a bad taste in my mouth.

THE COURT: Of what?

PROSPECTIVE JUROR 34: Of the whole -- the whole experience from just trying to get the story right. He was not -- found not guilty, but the whole experience just left me bitter.

THE COURT: You can't be fair?

PROSPECTIVE JUROR 34: No, sir.

THE COURT: Go back down to the second floor. You're excused.
PROSPECTIVE JUROR 34: Thank you.
(Pause)
THE COURT: Good morning. Name and number, please.
PROSPECTIVE JUROR 4: (Indiscernible), Number 4. I was charged with disorderly conduct (indiscernible).
THE COURT: When was that?
PROSPECTIVE JUROR 4: (Indiscernible).
THE COURT: Anything about that experience that would cause you not to be fair or impartial in this case?
PROSPECTIVE JUROR 4: No.
THE COURT: Okay. Have a seat.
(Pause)
THE COURT: Good morning.
PROSPECTIVE JUROR 41: Hi.
THE COURT: Name and number, please.
PROSPECTIVE JUROR 41: (Indiscernible), 41.
THE COURT: Okay.
PROSPECTIVE JUROR 41: I have two DUI charges against me and -- and I didn't serve any jail

time, but I went through the AARD programs and got a license suspended for (indiscernible). I had probation for a year.

THE COURT: All right. Anything about that experience that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 41: I don't know about that. You know, I just had a bad experience with those police officers in both of those cases.

THE COURT: Why? Did you think you were unfairly charged?

PROSPECTIVE JUROR 41: I think that I was outside of my house (indiscernible) right from my driveway, and the other time I think I only got stopped because I was the only person on the road. It was at 3:00 in the morning. And I just --

THE COURT: Well, did you -- did you take a blood alcohol test?

PROSPECTIVE JUROR 41: Yeah.

THE COURT: Well, obviously it showed up.

PROSPECTIVE JUROR 41: Yeah. But I just -- it was a bad experience.

THE COURT: Do you think you could be fair and impartial in this case? It doesn't involve

DUI.

PROSPECTIVE JUROR 41: I don't know. It depends on what the case is.

THE COURT: Robbery.

PROSPECTIVE JUROR 41: I'm --

THE COURT: Allegedly a robbery.

PROSPECTIVE JUROR 41: I don't feel like I could be a judge. I don't feel -- I think God is our only judge.

THE COURT: Who?

PROSPECTIVE JUROR 41: I think God is our only judge. I don't -- if I wanted to be a judge, I would be one. So if I don't think I could give a verdict one way or the other.

THE COURT: All right. Go back down to the second floor.

PROSPECTIVE JUROR 41: To the second floor?

THE COURT: Yes.

THE CLERK: You can go down to the second floor.

(Pause)

PROSPECTIVE JUROR 36: Good morning, Your Honor.

THE COURT: Good morning.

PROSPECTIVE JUROR 36: (Indiscernible). I think it's Number 36.

THE COURT: Okay.

PROSPECTIVE JUROR 36: I have a son who was recently convicted of a DUI.

THE COURT: Anything about that experience that would cause you not to be fair and impartial in this case?

PROSPECTIVE JUROR 36: No.

THE COURT: Have a seat.

(Pause)

THE COURT: Good morning.

PROSPECTIVE JUROR 39: Good morning.

THE COURT: Name and number, please.

PROSPECTIVE JUROR 39: Christian (indiscernible), Number 39.

THE COURT: All right.

PROSPECTIVE JUROR 39: (Indiscernible).

THE COURT: You what?

PROSPECTIVE JUROR 39: My father pled guilty to aggravated assault and I think some other things. But he's awaiting sentencing. So --

THE COURT: Where was that?

PROSPECTIVE JUROR 39: Montgomery County.

THE COURT: Who was he involved with?

PROSPECTIVE JUROR 39: My mother.

THE COURT: With your mother? Anything about that experience that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 39: No.

MS. SCOTT: (Indiscernible).

PROSPECTIVE JUROR 39: No.

THE COURT: He's not a football player, is he?

PROSPECTIVE JUROR 39: No, he's not.

THE COURT: All right. Have a seat.

(Laughter)

THE COURT: Good morning.

PROSPECTIVE JUROR 45: (Indiscernible), Number 45.

THE COURT: Okay.

PROSPECTIVE JUROR 45: So about 24 years ago I was charged and found not guilty of demonstrating (indiscernible).

THE COURT: And they didn't give you an award?

PROSPECTIVE JUROR 45: No, they did not. But the second thing I wanted to mention, though, is that my daughter also was a victim of rape (indiscernible).

THE COURT: Well, when --- did they ever capture the gentleman who did that?

PROSPECTIVE JUROR 45: Well, we know who this -- this was in Canada and they did not follow through --

THE COURT: Oh, Canada.

PROSPECTIVE JUROR 45: -- on this. They did -- in Canada. They did not follow through on the case. So --

THE COURT: Anything about those experiences that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 45: In the case of the rape, yes. That would be (indiscernible) because that was (indiscernible).

THE COURT: Well, this case has nothing to do with rape.

PROSPECTIVE JUROR 45: That's good. I just wanted to --

THE COURT: Okay. It has nothing to do with rape.

PROSPECTIVE JUROR 45: I would not be able to manage that.

THE COURT: Okay. But you could handle

and be fair and impartial?

PROSPECTIVE JUROR 45: Yes, Your Honor.

THE COURT: Okay. Good.

MS. SCOTT: (Indiscernible).

PROSPECTIVE JUROR 45: (Indiscernible).

THE COURT: All right. Have a seat.

(Pause)

THE COURT: Good morning. Name and number, please.

PROSPECTIVE JUROR 44: My name is (indiscernible). I'm not sure if I'm 44 or 45, but somewhere around there.

THE COURT: Certainly not your age. You're much younger than that. Okay.

PROSPECTIVE JUROR 44: I was (indiscernible) and my sister-in-law (indiscernible) and nothing ever happened to them. They were (indiscernible).

THE COURT: You're a pharmacist?

PROSPECTIVE JUROR 44: Yes.

THE COURT: So the store was robbed after you left?

PROSPECTIVE JUROR 44: Yeah, but my sister-in-law was in there, so --

THE COURT: Okay. Did they ever

capture anyone?

PROSPECTIVE JUROR 44: They did eventually. There were 27 stores involved and it was about five or six years.

THE COURT: All right. Anything about that experience that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 44: I believe so. I'm sorry. Yes.

THE COURT: You could not be -- listen to instructions and be fair?

PROSPECTIVE JUROR 44: I don't think so.

THE COURT: Okay. Have a seat. I'll tell you what. Go back down to the second floor. You're excused.

(Pause)

(Judge addresses all prospective jurors):

THE COURT: The indictment has charged the defendant with committing various acts. You may not use the indictment as evidence against the defendant. It merely outlines the charges against the defendant.

Is there anyone who does not understand this instruction?

The defendant is charged with two counts of robbery and two counts of carrying a firearm in relation to a crime of violence. These charges arise from robberies the defendant allegedly committed at a Subway restaurant at -- and at an Anna's Linen Store in Philadelphia in December 2012.

Do you know anything about the facts of this case?

Do you have an opinion or have you reached any conclusion about this case?

Are you or have you or any member of your family ever been an official or an employee of the United States government? Now if you've already answered that question you don't have to answer it again. Raise your hand.

Come on up. That includes post office. You always get a lot of postal employees.

(Laughter)

THE COURT: Good morning. Name and number, please.

PROSPECTIVE JUROR 29: Carolyn (indiscernible), Number 29.

THE COURT: Okay.

PROSPECTIVE JUROR 29: I used to work for the Navy.

THE COURT: For the Navy?

PROSPECTIVE JUROR 29: Yes, sir.

THE COURT: What did you do for them?

PROSPECTIVE JUROR 29: I was a programmer.

THE COURT: All right. Anything about that experience that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 29: I don't think so.

THE COURT: Good. Have a seat.

(Pause)

THE COURT: Good morning.

PROSPECTIVE JUROR 1: Name and number, please.

PROSPECTIVE JUROR 1: Brad Smith, Bradley Smith, 1, and my grandfather was a (indiscernible) police department chief.

THE COURT: Where?

PROSPECTIVE JUROR 1: Allentown Police Department.

THE COURT: He was a chief?

PROSPECTIVE JUROR 1: (Indiscernible)?

THE COURT: When was that?

PROSPECTIVE JUROR 1: (Indiscernible)

1982 to '98.

THE COURT: Okay. Anything about that experience that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 1: No.

THE COURT: No?

PROSPECTIVE JUROR 1: No.

THE COURT: Okay. Any questions?

MS. LINEHAN: No questions.

THE COURT: Okay. Have a seat.

(Pause)

PROSPECTIVE JUROR 27: (Indiscernible), Number 27.

THE COURT: Number 27 again. Okay.

PROSPECTIVE JUROR 27: My uncle is a retired judge in Delaware County. My cousin's --

THE COURT: What's his name?

PROSPECTIVE JUROR 27: (Indiscernible).

THE COURT: Uh-huh.

PROSPECTIVE JUROR 27: My cousin (indiscernible), she was district assistant for (indiscernible).

THE COURT: Okay.

PROSPECTIVE JUROR 27: My uncle (indiscernible).

THE COURT: Anything about those facts that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 27: I don't think so.

THE COURT: Any questions anybody?

Okay. Have a seat.

(Pause)

THE COURT: Hi there. Name and number, please.

PROSPECTIVE JUROR 18: 18, Charlene (indiscernible). I work for the (indiscernible) judicial system in Delaware County.

THE COURT: You worked for who?

PROSPECTIVE JUROR 18: (Indiscernible) judicial system in Delaware County.

THE COURT: Oh, okay. Those are district court judges?

PROSPECTIVE JUROR 18: Yes.

THE COURT: Okay. Anything about that that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 18: (Indiscernible).

THE COURT: What do you do for them?

PROSPECTIVE JUROR 18: I process civil,

criminal, traffic, non-traffic (indiscernible) leads up to the higher court (indiscernible) Delaware County courthouse.

THE COURT: All right. Any questions?

MS. LINEHAN: I do, Your Honor.

THE COURT: Okay.

MS. LINEHAN: (Indiscernible) two sisters that work in Delaware County. (Indiscernible).

PROSPECTIVE JUROR 18: (Indiscernible).

MS. LINEHAN: (Indiscernible).

THE COURT: All right. Have a seat.

(Pause)

PROSPECTIVE JUROR 11: (Indiscernible), 11.

THE COURT: Okay.

PROSPECTIVE JUROR 11: My wife work for U.S. Embassy in (indiscernible).

THE COURT: Okay.

PROSPECTIVE JUROR 11: (Indiscernible).

THE COURT: Okay. How about you?

PROSPECTIVE JUROR 11: I do not work for (indiscernible). I'm a physician.

THE COURT: Okay. What do you do now?

PROSPECTIVE JUROR 11: I'm a physician.

THE COURT: A physicist?

PROSPECTIVE JUROR 11: A physician.

THE COURT: Oh, a physician. Okay. Thank you very much. Have a seat.

(Pause)

THE COURT: Good morning.

PROSPECTIVE JUROR 42: Elizabeth McGayle (ph), Number 42. My husband worked for the federal government for 30 some years.

THE COURT: As what?

PROSPECTIVE JUROR 42: He was an engineer.

THE COURT: Which department?

PROSPECTIVE JUROR 42: DCMA down in -- well, he worked (indiscernible).

THE COURT: Oh. Anything about that that would cause you not to be fair and impartial in this case?

PROSPECTIVE JUROR 42: No, as long as they keep sending me checks, retirement checks.

THE COURT: There you go. Thank you very much. Have a seat.

(Pause)

THE COURT: Good morning. Your name and number.

PROSPECTIVE JUROR 12: (Indiscernible), Number 12.

THE COURT: Your name?

PROSPECTIVE JUROR 12: (Indiscernible), Number 12.

THE COURT: Okay.

PROSPECTIVE JUROR 12: My uncle was (indiscernible).

THE COURT: He was -- he was a what, a bailiff?

PROSPECTIVE JUROR 12: Yeah. He was --

THE COURT: For whose trial?

PROSPECTIVE JUROR 12: (Indiscernible).

THE COURT: (Indiscernible).

PROSPECTIVE JUROR 12: I'm sorry.

THE COURT: It was (indiscernible)? Was that who it was?

PROSPECTIVE JUROR 12: Yeah.

THE COURT: He was the bailiff.

PROSPECTIVE JUROR 12: Uh-huh.

THE COURT: Okay. Anything about that that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 12: Well, that's up to you and counsel. I don't think I could be fair.

THE COURT: Why?

PROSPECTIVE JUROR 12: Just because of certain things that I heard about the trial (indiscernible).

THE COURT: And (indiscernible)?

PROSPECTIVE JUROR 12: Yeah.

THE COURT: Things like that go on here.

PROSPECTIVE JUROR 12: Well --

THE COURT: Could you follow my instructions?

PROSPECTIVE JUROR 12: I could follow instructions.

THE COURT: Okay. Have a seat.

PROSPECTIVE JUROR 12: Thank you.

THE COURT: Well, go ahead.

MS. SCOTT: (Indiscernible).

PROSPECTIVE JUROR 12: Well, if he told me to stand up, then I would stand up or something, but I'm -- it's just that (indiscernible).

MS. SCOTT: (Indiscernible).

PROSPECTIVE JUROR 12: Yeah.

THE COURT: What personal things, like what?

PROSPECTIVE JUROR 12: Just the way the

government is run. It's just personal things, that's all.

THE COURT: The way the government is run?

PROSPECTIVE JUROR 12: Yeah.

THE COURT: (Indiscernible).

PROSPECTIVE JUROR 12: If you would like me to (indiscernible) and be part of the jury. It's (indiscernible).

MS. SCOTT: (Indiscernible).

MS. LINEHAN: (Indiscernible).

THE COURT: All right. Have a seat.

(Pause)

(Judge addresses all prospective jurors):

THE COURT: Do you or does any member of your immediate family have any dealings with the United States government or any of its agencies or the defendant from which you might profit?

Have you ever had or do you now have or do you presently anticipate having a case or dispute with or a claim against the United States government or with the defendant?

If you've already answered this question when you came up here, you don't have to come up again.

Are you or is any member of your immediate family employed by a law enforcement agency?

If you have -- if you've already told us you don't have to come up again, but if you haven't come on up now.

(Pause)

THE COURT: Good morning. Name and number, please.

PROSPECTIVE JUROR 33: (Indiscernible), 33.

THE COURT: 33?

PROSPECTIVE JUROR 33: Yeah. My late uncle was a sheriff (indiscernible) and --

THE COURT: You have a --

PROSPECTIVE JUROR 33: A late uncle who was the sheriff of (indiscernible) --

THE COURT: (Indiscernible), Pennsylvania?

PROSPECTIVE JUROR 33: Yes (indiscernible).

THE COURT: (Indiscernible). Do you know what they do?

PROSPECTIVE JUROR 33: He's a detective. That's all I know.

THE COURT: You don't discuss things

like that with him?

PROSPECTIVE JUROR 33: He never -- no.

THE COURT: All right. Would that hinder your ability to be fair and impartial?

PROSPECTIVE JUROR 33: Absolutely not. That's his job, not mine.

THE COURT: Okay. Good. Have a seat.

(Pause)

THE COURT: (Indiscernible).

PROSPECTIVE JUROR 39: Christian (indiscernible), Number 39. I have an uncle (indiscernible) police officer (indiscernible) and my wife was a (indiscernible).

THE COURT: When was that?

PROSPECTIVE JUROR 39: She just left the office a few years ago.

THE COURT: Would that cause you in any way to be -- not be fair or impartial in this case?

PROSPECTIVE JUROR 39: I don't think so.

MS. SCOTT: (Indiscernible).

PROSPECTIVE JUROR 39: We do. We did. Yeah.

MS. SCOTT: (Indiscernible).

PROSPECTIVE JUROR 39: She was in

majors. Yeah.

MS. SCOTT: (Indiscernible).

PROSPECTIVE JUROR 39: (Indiscernible). I would like to say no (indiscernible), but obviously she's on the other side of the law.

MS. SCOTT: (Indiscernible) unsure about your abilities to be fair and impartial?

PROSPECTIVE JUROR 39: No. I think I can be fair and impartial.

MS. LINEHAN: (Indiscernible).

PROSPECTIVE JUROR 39: No. She was (indiscernible).

MS. LINEHAN: (Indiscernible).

PROSPECTIVE JUROR 39: She works for (indiscernible).

THE COURT: All right. Thank you. Have a seat.

(Pause)

THE COURT: Hi there, again.

PROSPECTIVE JUROR 10: Hi again, Jenny Swagger (ph), Number 10. My sister (indiscernible) -- but my sister (indiscernible) Philadelphia Police Officer.

THE COURT: What does she do?

PROSPECTIVE JUROR 10: She recently

started working there, so --

THE COURT: When? How recently?

PROSPECTIVE JUROR 10: A month maybe.

THE COURT: A month?

PROSPECTIVE JUROR 10: I think.

THE COURT: All right. Anything about that that would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 10: No.

THE COURT: No? All right. Have a seat.

How long have you lived in Pennsylvania and you've never heard of these towns? There's a lot of Pennsylvania Dutch artwork and everything.

MS. SCOTT: (Indiscernible).

PROSPECTIVE JUROR 31: My wife's nephew --

THE COURT: Name and number.

PROSPECTIVE JUROR 31: John McGahey, Number 31.

THE COURT: Okay.

PROSPECTIVE JUROR 31: My wife's nephew is a Philadelphia Police Officer and her brother-in-law is a retired Philadelphia Police Officer.

THE COURT: Anything about that that

would cause you not to be fair or impartial in this case?

PROSPECTIVE JUROR 31: No, sir.

THE COURT: Okay. Have a seat.

PROSPECTIVE JUROR 31: Thank you.

(Pause)

(Judge addresses all prospective jurors):

THE COURT: Would you give greater credence to the testimony of a police officer or government agent than you would to the testimony of a defendant or other person because the police officer or government agent is involved in law enforcement?

Come on up.

(Pause)

THE COURT: Can you tell me why that's the case for you?

PROSPECTIVE JUROR (Unidentified): Well, I think that by the time -- these people (indiscernible). By the time that they have somebody at this level and they haven't pleaded it out or something like that --

THE COURT: You know that?

PROSPECTIVE JUROR 31: I don't know that, but I just --

THE COURT: What about witnesses? You

don't think -- you would give greater credence to a police officer over a witness, an eyewitness?

PROSPECTIVE JUROR 31: Well, eyewitnesses often -- I think they've shown that they're not really that reliable.

THE COURT: What about if the police officer is an eyewitness?

PROSPECTIVE JUROR 31: Well, he might be better trained or she might be better trained to do that.

THE COURT: You just have a bias towards the police, don't you?

PROSPECTIVE JUROR 31: Yeah. You know what? I think if it was a civil action I would --

THE COURT: It's not. It's a criminal case.

PROSPECTIVE JUROR 31: I know. I know. I know. I just (indiscernible).

THE COURT: You couldn't set that aside and listen to the testimony of the witnesses?

PROSPECTIVE JUROR 31: I'm just being honest with you. I think you know, I would be very interested in it, but if it (indiscernible).

THE COURT: Do police officers always tell the truth?

PROSPECTIVE JUROR 31: Absolutely not.

THE COURT: So why would you say -- sooner to believe him than anyone else? An independent witness has nothing to gain (indiscernible).

PROSPECTIVE JUROR 31: Again, I -- I'm not sure. You're asking me if I'm predisposed to be (indiscernible) and I believe if they have that background to get there (indiscernible).

THE COURT: Go back down to the second floor. You're excused.

PROSPECTIVE JUROR 31: (Indiscernible).

(Pause)

THE COURT: All right.

PROSPECTIVE JUROR 38: (Indiscernible). I think I'm 38, Number 38.

THE COURT: Okay.

PROSPECTIVE JUROR 38: And I (indiscernible) country -- countries and we don't have these kind of choices. And (indiscernible) police officer (indiscernible) false evidence and I think I would be -- believe them if they presented (indiscernible).

THE COURT: What if you have a witness who also has nothing to gain?

PROSPECTIVE JUROR 38: He (indiscernible) and they sometimes can be distracted by other things. And so I would rather believe the one which have the professional training (indiscernible).

THE COURT: Which one was that?

PROSPECTIVE JUROR 38: I came from China.

THE COURT: And you think the authorities in China always tell the truth?

PROSPECTIVE JUROR 38: Not --

THE COURT: That's why you're not there anymore.

PROSPECTIVE JUROR 38: I think it's the police tell the truth. I don't want to argue with you politically, but this is how I raise up and when the police tell you to do this, you do this.

THE COURT: All right. You're excused. Go back to the second floor.

(Pause)

THE COURT: Hello there.

PROSPECTIVE JUROR 1: (Indiscernible), Number 1. I'm not saying (indiscernible), but I know a lot more good cops than (indiscernible) and I believe that police officers are there to enforce the law and (indiscernible) then, you know, the cop has positive backup, I guess.

THE COURT: Could you listen to the evidence?

PROSPECTIVE JUROR 1: Yeah, I guess, but --

THE COURT: This is your uncle talking or is this you?

PROSPECTIVE JUROR 1: That was my grandfather.

THE COURT: Your grandfather.

PROSPECTIVE JUROR 1: Well, I was (indiscernible).

THE COURT: All right. Go back down to the second floor.

(Pause)

(Judge addresses all prospective jurors):

THE COURT: Do you have any feelings or beliefs about firearms such that you would be unable to fairly evaluate the evidence with respect to the defendant?

Do you have a problem with your hearing, eyesight or any other physical handicap which would in any way or manner prevent you from either hearing or seeing the evidence presented at trial?

If you were representing the government or a defendant in this case is there any reason why you would not be content to have the case decided by someone in your frame of mind?

A criminal defendant is presumed innocent and the government is required by law to prove a defendant guilty beyond a reasonable doubt. Do you have any difficulty presuming the defendant is innocent until proven guilty?

Do you have any opinions, religious beliefs, philosophies or prejudices which would make you unable to come to a verdict in this case?

Come on up.

(Pause)

THE COURT: Name and number, please.

PROSPECTIVE JUROR 9: Amos (indiscernible), 9.

THE COURT: What's your name?

PROSPECTIVE JUROR 9: Amos.

THE COURT: Amos.

PROSPECTIVE JUROR 9: Amos (indiscernible).

THE COURT: (Indiscernible). We were just talking about (indiscernible) County.

PROSPECTIVE JUROR 9: Yeah. That's

where I'm at.

PROSPECTIVE JUROR 9: They never -- they never heard of Paradise, (indiscernible) or Intercourse.

MS. SCOTT: (Indiscernible).

(Laughter)

PROSPECTIVE JUROR 9: Yeah. I'm right around there.

MS. SCOTT: Okay.

THE COURT: That's a big name out there, (indiscernible). Okay. Go ahead.

PROSPECTIVE JUROR 9: The only problem I would have would be the death penalty.

THE COURT: There's no death penalty involved in this.

PROSPECTIVE JUROR 9: The Bible says that --

THE COURT: There's no death penalty involved in this case.

PROSPECTIVE JUROR 9: There's no death penalty?

THE COURT: No. Huh-huh. Not a possibility. Okay.

PROSPECTIVE JUROR 9: Okay.

THE COURT: How's that? That solves

that problem, right?

PROSPECTIVE JUROR 9: Yeah.

THE COURT: Okay. Have a seat.

(Judge addresses all prospective jurors):

THE COURT: The trial in this case is scheduled to take place until the end of the week, probably be sooner than that. I sit from 9:30 in the morning until 4:30 in the afternoon, with a lunch break as well as one brief morning break and one brief afternoon break.

Anyone have a problem with this?

Come on up.

(Pause)

PROSPECTIVE JUROR (Unidentified): I have (indiscernible) on Friday. (Indiscernible).

THE COURT: When are you leaving?

PROSPECTIVE JUROR (Unidentified): Friday.

THE COURT: That's where I’m going Friday. I want this case over by Friday --

PROSPECTIVE JUROR (Unidentified: Okay. W ell, then --

THE COURT: -- because I'm taking the train.

PROSPECTIVE JUROR (Unidentified):

Okay. Then --

THE COURT: So you and I are in the same boat. Okay.

PROSPECTIVE JUROR (Unidentified): Okay.

(Laughter)

THE COURT: Yes, ma'am.

PROSPECTIVE JUROR 17: (Indiscernible), Number 17. I'm a speech therapist and school just started and I work with kids who are on the autism spectrum. So --

THE COURT: Where?

PROSPECTIVE JUROR 17: The Vanguard School (indiscernible). So my only concern would be, you know, for them to miss (indiscernible) since it's just starting.

THE COURT: Let's take it as it comes. All right.

PROSPECTIVE JUROR 17: Okay.

THE COURT: We'll see. We'll see.

(Pause)

THE COURT: Okay.

PROSPECTIVE JUROR (Unidentified): Yes, Your Honor. (Indiscernible).

THE COURT: You what?

PROSPECTIVE JUROR (Unidentified): If it goes past Friday I'm leaving from --

THE COURT: What do you mean if it goes past Friday?

PROSPECTIVE JUROR (Unidentified): (Indiscernible).

THE COURT: To next week?

PROSPECTIVE JUROR (Unidentified): Yeah.

THE COURT: It won't.

PROSPECTIVE JUROR (Unidentified): Okay.

THE COURT: Believe me it won't.

(Pause)

(Judge addresses all prospective jurors):

THE COURT: All right. What's going to happen now is the lawyers are going to be sitting there and they'll be exchanging notes to decide who should be on the jury. So bear with them. I'll sit here in case a fight breaks out.

(Laughter)

MS. SCOTT: Your Honor, may I ask one question? (Indiscernible).

THE COURT: I gave you instructions on that. Read my instructions. They have to follow my instructions.

(Off the record at 11:26 a.m.; resume at 11:53 a.m.)

THE CLERK: Okay, ladies and gentlemen, we're going to call your names out and if you could just take a seat in the jury box:

Garrett Bess (ph), please take the first seat in the first row; Kathleen Nolde (ph); Adam Kirtec (ph); Jenny Swagger; John Fitz (ph); Paula Korakankitch (ph); Terry Bracey (ph), take the first seat in the second row, please; Deborah Lilley (ph); Dabney Blackwell (ph); Charlene Blunden (ph); Robert Traile (ph); Darryl Gonzalez; Patricia Scandaleski (ph); and Yvonne Johnson (ph).

Is this seating satisfactory, Counsel?

MS. SCOTT: Yes.

MS. LINEHAN: Yes.

THE CLERK: Ladies and gentlemen, the rest of you can go down to the second floor (indiscernible), Room 2710. Thank you very much.

(Prospective jurors excused)

THE CLERK: Ladies and gentlemen, please raise and raise your right hand.

JURY PANEL SWORN

THE CLERK: Okay. Please be seated.

THE COURT: All right. Congratulations, everybody. I was called to jury duty twice. I wasn't selected.

(Laughter)

THE COURT: So I actually am jealous. I always wanted to know what went on in the jury room.

All right. Since it's almost noon what we'll do is we'll break for lunch, see everybody back here at 1:00 sharp. Don't get lost. And, Mr. Campoli here will take you to the jury room and you'll -- he'll explain what -- you can leave your stuff back there and everything.

THE CLERK: If you would just follow me right back here, ladies and gentlemen.

(Jury leaves courtroom)

THE COURT: All right. We'll see everybody back here at 1:00 sharp when I'll give them some preliminary instructions and then we'll go right into it.

Get your witnesses lined up and make sure their testimony is to the point, (indiscernible) questions, you know. We have a -- I think we have one juror that is not going to be here Friday, so.

Okay. See you.

(Recess taken at 11:54 a.m.; resume at 1:05 p.m.)

(Jury present)

THE COURT: Well, welcome back. I hope you enjoyed your lunch, as brief as it was.

Now that you've been sworn it's my practice to give some preliminary instructions to you because for most people jury service is a brand new experience.

And, members of the jury, there are actually two judges in this courtroom. You are the only judge of the facts. I am the only judge of the law. We each have very specific responsibilities and I'll try to make our respective functions clear to you as I go along.

There comes a time at the end of the case when our two functions get together, but throughout the trial bear in mind that you and you alone are the judges of the facts: What happened, how it happened, and under what circumstances it happened. That's your job. And if, for example, during the course of the trial I should happen to ask a witness or a party some questions, don't try to read into my questions that I am trying to communicate or express any opinion as to the facts. I'm not. I have none and will have none.

And the only proper purpose of a judge

ever asking a witness any question is where there is some ambiguity or uncertainty, and the judge thinks that for the jury to more effectively judge the facts such questions should be asked. But don't try to infer any opinion on it or any conclusion on my part.

Now I have a few words about your conduct as jurors.

First, you will during the course of the trial see counsel, parties and witnesses in the corridors and the elevators and other places. You are to have no conversation with them nor they with you. The only testimony -- if someone says good morning, you can say good morning. You don't have to go, grr. You can say good morning. The only testimony that you are to hear is what is presented in open court, and the only thing that is to be said concerning this case to you is to be done under my supervision. You must not attempt to have any communication with any party, lawyer or any witness to this proceeding.

Second, do not read or listen to anything touching on this case in any way. If anyone should try to talk to you about it, bring it to the Court's attention promptly.

Third, do not try to do any research or make any investigation about the case on your own.

For example, you should not perform research or searches on the internet. Raise your hands. All of you have computers, anyone, all? All right.

You must resist the temptation to perform any independent investigation or research about the case. That includes going to the scene of the events; Googling the events or persons involved in the case, including the lawyers and me; reading the information online about the case; or using chat rooms or websites such as Facebook or Twitter to learn more about the case and the people involved. You might think that this type of research is harmless and will not affect your judgment. But I assure you that even seemingly innocent online searches and emails can jeopardize the party's rights to a fair trial.

Due process of law requires that the information you learn about this case must come from either the witness stand or the evidence that is properly admitted.

Disobeying this instruction could cause a mistrial, which would mean that all of our efforts would have been wasted and we would have to start a new trial with a new jury. If you were to cause a mistrial by violating this order you could be required to pay all of the costs of these proceeding and, perhaps, even be punished for contempt of court.

You also must not blog or email or post anything in chat rooms, Facebook, or Twitter or any other web pages about your jury service, this case or your deliberations. You must resist the urge to provide updates about your work to friends and family.

In sum, you should neither seek information about this case nor share information regardless of its nature. What you may do is advise anyone who needs to know, such as family members, employers, employees, schools, teachers or daycare provides that you are a juror in a case and the judge has ordered you not to discuss it until you have reached a verdict and been discharged.

Now for some of you that might be a good thing, you know. If your spouse says, honey, I want -- hey, the judge told me I can't talk to you. This could be it. This could be perfect.

(Laughter)

THE COURT: You have a week of peace. At that point you will be free to discuss this case or investigate anything about it.

Finally, do not form any opinion until all the evidence is in. Keep an open mind until you start your deliberations at the end of the case. The reason for these rules as I am certain you will understand is that your decision in this case must be made solely on the evidence presented at trial.

Now I've been telling you about your function. What's my function? Essentially, my function is to see to it that this case is conducted in accordance with the principles of law and the rules of evidence that have been established. From time to time during the course of trial I will be called upon to make certain legal rulings. These rulings may come about in a variety of ways. The most typical way in which they arrive is when the lawyer asks a question and another lawyer makes an objection. You've seen that on TV. You know, objection. That's it.

I'm then called upon to rule on the objection. That is a legal matter. The basis of my ruling is of no concern to you because I am the sole judge of the law. A lawyer who makes an objection is not trying to hide anything or conceal anything from you. The lawyer is saying to the Court that what is proposed is not in accordance with the law and is performing a function the lawyer owes to the client and the Court.

Occasionally, it may be necessary for me to hear argument on matters. If I do, it will not be heard in your presence. We will hear those arguments either at sidebar -- you've heard that in the TV. Have a sidebar. I'm not a big fan of sidebars so we usually do it during a break so it doesn't disrupt the flow of a trial. And I'll hear these arguments at sidebar or in an anteroom out of your presence.

Please bear in mind that when that occurs, we're not engaging in any secret proceedings. In the course of arguments something might be said that may be inappropriate or improper or prejudicial and, therefore, I must hear legal arguments out of your presence.

So if we should break for that purpose, please understand we're not wasting time. We are simply performing as judge and lawyers are supposed to. Any objections are not evidence in the case and you are not to consider them. If the objection is sustained, ignore the question. If it is overruled, treat the answer like any other answer.

As I told you, I'm the judge of the law. You have no choice but to follow the instructions that I give you with respect to the law.

Now understand that the principles of the law that I as a trial judge give you are not made up by me. I don't invent law for purposes of this or any other case. It is the law either in the statutes or in the opinions of our appellate courts. It's my responsibility to charge you on that law as I find it whether I like it or not. I, too, must follow the law as it has been set forth. You, by your oath, are sworn to accept and follow the law as I give it to you. Remember, you are the sole judges of the fact and I am the sole judge of the law.

Now I want to explain how this trial will proceed. This criminal case has been brought by the United States government. I will sometimes refer to the government as the prosecution. The defendant has been charged by the government with violations of federal law. The charges against the defendant are contained in the indictment. The indictment is simply the description of the charges made by the government against the defendant. It is not evidence of anything.

The defendant pleaded not guilty to the charges and denies committing the offenses. He is presumed innocent and may not be found guilty by you unless all 12 of you unanimously find that the government has proven guilt beyond a reasonable doubt.

The first step in the trial will be the

opening statements. The government in its opening statement will tell you about the evidence which it intends to put before you so that you so that you will have an idea of what the government's case is going to be. Just as the indictment is not evidence, neither is the opening statement. Its purpose is only to help you understand what the evidence will be and what the government will try to prove.

After the government's opening statement the defendant's attorney may, but does not have to, make opening statements. At this point in the trial no evidence has been offered by either side.

The government will then present its witnesses and counsel for the defendant may cross-examine them.

Following the government's case, the defendant may, if he so chooses, present witnesses whom the government may cross-examine. The defendant does not have to present evidence. Why? Because he is presumed innocent.

After all the evidence is in, the attorneys will present their closing arguments to summarize and interpret the evidence for you. Just as the opening statements are not evidence, the closing arguments are not evidence either. No questions or statements of counsel are evidence.

Finally, I will instruct you on the rules of law you will use to reach your verdict. After that you will retire to deliberate on your verdict. Your deliberations will be secret. The evidence from which you will find the facts will consist of the testimony of witnesses, documents, and other things received into the record as exhibits and any facts the lawyers agree or stipulate to, or that the Court may instruct you to find.

Some of you have probably heard the terms circumstantial evidence and direct evidence, right? You've heard those terms. Do not be concerned with these terms. You are to consider all of the evidence given in this trial. It will be up to you to decide which witnesses to believe, which witnesses not to believe, and how much of any witness's testimony to accept or reject. I will give you some guidelines for determining the credibility of witnesses at the end of the case.

If you are instructed that some item of evidence is received for a limited purpose only, you must follow that instruction.

You are permitted to take notes during this trial if you wish to do so. However, it is important for you to remember several things about note-taking. Notes are only aids to memory. They are not conclusive and you should not give your notes precedence over your independent recollection of the facts. They are not entitled to any greater weight than the recollection or the impression of any juror as to what the testimony may have been or what conclusion should be arrived at.

If you decide to take notes, you must make sure that you pay attention to what is going on in the courtroom all of the time. Do not allow note-taking to distract you. If you do not take notes, you should rely on your independent recollection of the evidence and you should not be influenced by the fact that another juror has taken notes. Please remember that notes are not official transcripts and that they may not cover points that you may have found significant. The contents of the notes must not be disclosed except to other jurors at the end of the trial.

Also, you are not permitted to take your notes home with you. They must remain in the jury room.

Now as you know, this is a criminal case. There are three basic rules about a criminal case that you must keep in mind.

First, the defendant is presumed innocent until proven guilty. The indictment against the defendant brought by the government is only an accusation, nothing more. It is not proof of guilt or anything else. The defendant, therefore, starts out with a clean slate.

Second, the burden of proof is on the government until the very end of the case. The defendant has no burden to prove his innocence or to present any evidence or to testify. Because the defendant has the right to remain silent the law prohibits you from considering that the defendant may not have testified in arriving at your verdict.

Third, the government must prove the defendant's guilt beyond a reasonable doubt. I will give you further instructions on this point later, but bear in mind that in this respect a criminal case is different from a civil case.

I know that jury participation sometimes represents an interference in your daily lives and a disruption of the things they would rather be doing. But I respectfully suggest to you that you should look upon your service as a juror as the privilege of men and women in a democratic society to participate in the judicial process in a meaningful and direct way.

Whenever a case is tried fairly, impartially and appropriately by a judge and a jury our democratic process and system of government is working. I hope that at the conclusion of this trial you will have that feeling.

And now I'm going to ask the government -- we've all agreed -- ten-minute statements. So pay attention.

MS. LINEHAN: Thank you, Your Honor.

THE COURT: You can turn that around if you want.

MS. LINEHAN: May I proceed, then, sir?

Ladies and gentlemen, sometimes things are as simple as they appear. And sometimes things are so clear that it makes you feel like you're missing something. And this is exactly that type of case. But don't let the simple, clear, uncomplicated evidence in this case make you believe that you're missing something because it will be exactly as you see it.

Ladies and gentlemen, we have videos of this defendant clearly plain as day robbing two stores in one night with a gun.

Ladies and gentlemen, one of the videos will show the gun and one won't, and I'll get into that in a minute, but let me first tell you about the robberies.

December 1st, 2012, the first armed robbery was of a Subway store in Center City at 5:40 p.m. The second armed robbery was at 7:20 at Anna's Linens in Germantown. Approximately, one and a half hours between the robberies and 5.8 miles.

What is clear is that both victims saw the defendant clearly and they will testify to that. They had ample opportunity to view him when he purchased something from each of them before he robbed them. He did not cover his face and they were focused on him and not distracted because he was making purchases before the robberies. They will also tell you that when he robbed them at gunpoint, they were focused on his face.

The Subway victim was able to see clearly the man that robbed her on December 1st. The next day as she was traveling down the street she saw the man that robbed her, this defendant, walking down the street and going into a corner store. She was so certain that it was him -- and oh, by the way, he had the same clothing on that he was wearing the night before when he robbed her at the Subway -- that she called the detective and indicated to the detective that the man that robbed me -- and she'll testify to this -- is walking down the street. She gave the detective his exact location and she was so certain it was him she followed him while simultaneously communicating to the detective where he was and what he was doing so that the detective could have police officers pull him over.

Both victims will testify clearly that the defendant used a gun to rob them and that they were sure that that gun was real. Now I indicated before, one of the videos from the Subway robbery will clearly show the gun. Unfortunately, the video from Anna's Linens does not because of a counter display that was next to the cash register which obstructs the video from showing the defendant's waist where he exposed the gun as he was threatening the victim during the robbery.

But, ladies and gentlemen, what is also clear that you'll hear in the evidence in this case is that the defendant used the same method to rob both of the stores an hour and a half apart. He used the same exact phrase to rob each. In Anna's Linens he said, do me a favor, give me all the money in the register.

At Subway earlier in that day at 5:40 he said, can you do me another favor and give me all the money. The description of the gun that the victims provided, both of them, were similar. The Subway victim said it was a black semi-automatic. The Anna's Linens victim said it was a black automatic.

The physical description of the person that robbed them was the same and you will hear that. And, ladies and gentlemen, as I've already stated in both robberies this defendant made a purchase. In the Subway store he purchased a sandwich before he robbed the young woman. In the Anna's Linens store he purchased a seat cushion before he robbed the young man behind the counter.

You will also hear what will be clear to you will be the motive and the opportunity. The motive, obviously, when he robbed the Subway store he needed money. He only got $100 from that robbery. So approximately an hour and a half later he hits the Anna's Linens store and in that robbery he gained -- he stole $750. I've already gone over the opportunity, 5.8 miles apart in approximately an hour and a half.

Now the good news for you is that this case is not complicated and it will not take long for the government to present the evidence, and it will not take too much of your time and service as jurors in this case because there is not much evidence.

But that good news for you is bad news for this defendant because this case is not complicated and the evidence is simple and clear. And it will not take you long because of that to find him guilty.

For you to find the defendant guilty I have to prove four counts in the indictment and they each have elements, and let me go through those quickly.

The first in Counts I and III are the robbery counts. I have to prove that the defendant stole money, $100 from Subway, 750 from Anna's Linens and I have to prove that the defendant did it knowingly and willfully by robbery.

And robbery is the taking of property from a person against their will by actual or threatened force or fear of injury. He did it with a gun. They both believed that something bad could happen to them like death.

Third, that as a result of the defendant's conduct in committing that robbery he affected interstate commerce. Now, ladies and gentlemen, interstate commerce, that can sound complicated, but let me simplify it. It is simply this. For the federal government to charge something like these robberies we must prove that the defendant's conduct in any way interfered with, changed, altered the movement or transportation of the flow of goods, merchandise, money or property in commerce between or among the states.

The effect can be minimal. Here's more good news for you. We will have a stipulation that both Subway and Anna's Linens sold products that had come from places other than Pennsylvania. Ladies and gentlemen, that element will be met with that stipulation. So what seemed to be complicated won't be in the end because you'll have a stipulation addressing that.

I don't need to prove that the defendant knew that he was affecting interstate commerce when he robbed those stores, but just that the effect of it, even minimal, was that it did. And, again, we'll have a stipulation to that.

For Counts II and IV, those are the two gun counts, in order to prove the defendant of guilty of possessing a firearm in furtherance of a crime of violence I need to prove that the defendant committed the crime of robbery. I think those videos will demonstrate that to you. And I also need to prove that the defendant knowingly possessed a firearm in furtherance of these crimes.

Ladies and gentlemen, the simple, clear and uncomplicated nature of this nature of this evidence in this case does not equal insignificant. You will hear from two people who had the awful experience of having a gun pointed at them, threats made, demands made and the fear of what could happen to them at that moment when it did. When you hear how these victims describe that they were robbed at gunpoint there will be no doubt in your mind that they were clear at that moment and area clear when they testify that it was a real gun. It was a gun that the defendant used to make them believe that if he didn’t -- if they didn't do what he asked, namely give them the money -- and in one situation he asked the young woman to give him the combination to the safe -- you will be clear that he used a gun to commit those robberies.

The clear and certain testimony of those victims will be enough evidence for you to convict the defendant of the robberies and of the two gun counts. But additional bad news for the defendants, those videos show him plain as day committing those robberies and you'll have those to view.

At the end of this short and uncomplicated case you will have seen the evidence clearly as I described, and you'll have enough to find this defendant guilty of all the crimes charged.

Thank you.

(Pause)

MS. SCOTT: Good afternoon, ladies and gentlemen. If I may first reintroduce myself, my name is Kai Scott and with my co-counsel, Nancy MacEoin, we represent the defendant in this matter, Anthony Robinson.

Mr. Robinson is a native Philadelphian. He's a father. He's a grandfather. He's a member of our community and you 14 have been selected to sit in judgment of him.

You just heard the allegations as they have been set forth by the government. And as you -- as Your Honor has already instructed you, these are just allegations at this point. It is not truth. It is not fact. It is only what the government hopes to prove.

Mr. Robinson did not commit the

robberies in this case. Let me repeat that. Mr. Robinson did not commit these robberies. Absolutely two robberies happened on December 1st, 2012. Those robberies happened. Those complainants were terrorized by an individual. However, the government will not be able to prove that it was Mr. Robinson who was the perpetrator in those robberies.

How will you know? How will you know that he is not the individual who went into the Subway store, who went into the Anna -- Anna's Linens store. If the 14 of you do four things throughout the course of this trial I have no doubt that at the closing of this case you will find Mr. Robinson not guilty.

The first thing I would ask each of you to do is to keep an open mind. The judge has already instructed you to do that. Keep an open mind and think about the evidence as you see it, as you hear it from all perspectives: The perspective of the government and the perspective of the defense.

The 14 of you are called to be like umpires in baseball. You're not rooting for any one side or the other. You are called to call it as you see it.

The second thing I would ask each of you to do is to pay specific attention to the details in this case. You're going to hear in a fairly short period of time about two separate robberies: The first at the Subway store and the second at the Anna's Linens store. You'll hear that the first robbery at the Subway store, there was just one individual in the store at the time of the robbery other than the person who was the perpetrator and that was a woman named Ms. Hayden.

Ms. Hayden, after the robbery was committed, gave multiple descriptions of the person who robbed that store. You will hear these multiple descriptions as you -- as you go through her testimony. You'll hear that she gave one description to the 9-1-1 operator. She gave another description to the first arriving police responders, and she gave yet a third description to the detectives who were called to investigate this matter.

Listen to those descriptions. Listen to the descriptions of the clothing, to the description of the individual who committed that robbery: The height, the weight, the tone or the skin tone of that individual and you will be able to compare that to Mr. Robinson.

You'll hear that that second robbery occurred less than two hours later, somewhere about an hour and half later in a completely different section of the City of Philadelphia. Listen to the description of that -- of the clothing of that person, of that individual. You will hear that the description of the clothing and the description of the person in that second robbery varies from the first robbery.

You will not be able to make a determination when you hear the evidence in this case and you hear the description of the clothing and of that individual. You won't be able to make a determination that the same individual was even involved in both those robberies, and you certainly won't be able to make a determination that it was Mr. Robinson who committed that robbery or either robbery.

Pay attention to the details of what happened the next day, December 2nd, 2012, when Mr. Robinson was arrested. You will hear testimony about how the arrest happened, but you'll also hear testimony about what happened during the course of Mr. Robinson's arrest. You'll hear that he was searched. The car that he was in was searched. Pay attention to what was not recovered during the time that he was arrested. You will not hear testimony about any sort of wrapping or bag from a Subway store.

You'll hear testimony from the complainant in the Anna's Linens store that when the person came in, the individual who robbed the store bought some sort of pillow. You will not hear testimony that when Mr. Robinson was arrested this pillow was recovered.

You won't hear any testimony about money that was recovered on Mr. Robinson or the car that he was traveling in. You won't hear any testimony about a gun that was recovered from Mr. Robinson or the car that he was traveling in. You won't hear any testimony about ammunition that was recovered from Mr. Robinson or the car that he was traveling in.

You will hear that both of these stores, the Subway and the Anna's Linens store, they were processed after the crime happened. You'll hear that there was a crime scene log and that there were individuals who came in and took photos of each store. What you won't hear testimony about is any fingerprints that was recovered or DNA that was recovered from either of those locations that match Mr. Robinson.

You won't hear testimony about the clothing that was used in the Anna's Linens robbery, an Eagles jacket, an Eagles knit cap, not recovered from Mr. Robinson, not recovered from the car that he was traveling in.

Pay attention to the details.

The third thing I would ask each of you to do is to use your common sense. Obviously, each of us come into this courtroom with our own educational backgrounds, our own work experiences, our own life experiences. And collectively that makes up our common sense, our individual common sense and collectively as a jury your common sense.

Certainly, we don't ask that you keep that outside the courtroom doors when you come in here or when you go into the back and you deliberate about this case. Use your common sense to make a determination as to whether all of the pieces of the puzzle are in place. The government is asking that you convict Mr. Robinson based on pieces of a puzzle. Are they all present? I submit to you they will not be all present.

And, finally, I would ask that each of you hold the government to its burden. Judge Schiller has already instructed you that it's the government, not the defense, the government that has the burden in this case. It's a criminal case where the government has the burden to prove guilt beyond a reasonable doubt. They have the burden to prove each and every element of the crime that they are alleging. They must prove that a robbery occurred. And, really, there is no dispute from the defense that robberies occurred here.

They must also prove beyond a reasonable doubt that an actual firearm was used during the commission of these robberies. As you've already heard Ms. Linehan say, the complainants are going to testify in this case. And, certainly, they will testify that they were terrified; that this person pointed what they believed to be a gun at them. You will not hear testimony that an actual firearm was recovered.

And while those individuals may have been terrorized and they may have been afraid, there is no indication or no proof that you will hear that an actual gun was used in this case. There is no indication that it wasn't a BB gun, a toy gun, or some other sort of look-alike that looks similar to an actual firearm.

And, of course, the government has the burden to prove that this robbery used with an actual firearm was committed by Mr. Robinson. That's their burden. It's a high burden. You must hold their feet to the fire.

I have no doubt that if the 14 of you do those four things that I've just asked -- you keep an open mind, you pay attention to the details of this case, you use your common sense and you hold the government to its burden -- that you will return with the only fair verdict in this case and that's a verdict of not guilty.

THE COURT: All right. Call your first witness.

MS. LINEHAN: Thank you, Your Honor. The government calls Detective Gino Andracchio.

(Pause)

GINO ANDRACCHIO, WITNESS, SWORN

THE CLERK: Please state your name for the record and spell your last name for the record.

THE WITNESS: It's Detective Gino, G-I-N-O, Andracchio, A-N-D-R-A-C-C-H-I-O, Badge 886, currently assigned to Central Detective Division, Philadelphia Police Department.

THE CLERK: Okay. Thank you. You may be seated.

THE WITNESS: Thank you.

MS. LINEHAN: May I, Your Honor?

DIRECT EXAMINATION

BY MS. LINEHAN:

Q. Detective Andracchio, you just indicated that you're assigned to the Central Division as a detective for the Philadelphia Police Department. Is that right?

A. Correct.

Q. Can you tell the ladies and gentlemen how long you've been a detective?

A. I've been a detective approximately three years now. Before that I was a police officer for about seven years.

Q. And what kind of crimes do you investigate as a detective?

A. It's a pretty broad range of crimes from simple retail thefts, frauds, robberies, burglaries, shootings, pretty much everything besides homicides and say sex crimes.

Q. And, Detective, before you were a detective you were a police officer for seven years. What types of crimes did you investigate as a patrolman?

A. Pretty much the same -- same type of crimes that I'm involved with now.

Q. And you were a police officer in the City of Philadelphia also?

A. Yes.

Q. All right. Now, Detective, I would like to direct your attention to an incident that occurred on December 1st, 2012 at Subway at 545 North Broad Street in Philadelphia. Are you familiar with an incident that occurred there at that -- on that date?

A. Yes.

Q. And are you, in fact -- did you serve as the lead detective for the Philadelphia Police Department investigating that robbery?

A. I did.

Q. Okay. And what did you do in your primary investigation of the robbery? Did you meet with the victim?

A. I did meet with the victim at the location. Correct.

Q. And did you take the victim's statement that night?

A. Yes.

Q. And what type of information did you take from the victim when you took her statement?

A. I took -- basically she told me what had happened at that location and what was taken and also a description of the perpetrator.

Q. Did you arrive at this Subway or did you do it back at the precinct?

A. It was done at the Subway.

Q. And what, if anything, did you do at the Subway related to the crime scene? Did you collect any evidence?

A. Video -- there was video at the crime scene, which I did not view at the time, but there was video. We were unable to collect it at that time because the person who works the system, I believe, is the manager of the store, wasn't there to help us with that. And so that's pretty much it.

Q. Now why didn't you do the typical canvassing for fingerprints or DNA analysis, anything of that sort at the Subway location?

A. Well, at the -- when we arrived at the scene it was determined to be a contaminated crime scene. There were multiple officers in and out of the place. There was also other customers who were, at the time, after it happened, had -- did show up and were asked to leave. So at the time the scene was contaminated.

Q. Okay. And when you say that you became aware that there was a video of the robbery but you were not able to take it, did you subsequently go back to the Subway store and obtain that video?

A. Yes.

Q. Now tell the jurors what the victim told you about the general description of the robber.

MS. MACEOIN: Objection, Your Honor, to hearsay.

MS. LINEHAN: Your Honor, it's not offered for the truth, only offered to show why the detective acted in the way that he did.

THE COURT: Overruled. Go ahead.

THE WITNESS: Yes, sir. She described the person as a black male, 35 to 40 years of age, thin build. He had salt and pepper hair, salt and pepper facial hair, wearing a sort of black and gray hooded sweatshirt, and then she also described him as wearing a pair of black and gray New Balance sneakers. She also described that he stated that he had a gun and described a gun as a black semi-automatic handgun.

Q. And did you provide -- did the victim tell you the approximate age range of the individual that robbed her?

A. Approximately 35 to 40 years of age. Yes.

Q. After you met with the victim and she told you what happened and gave you a description of the man that robbed her, did you give the victim your contact information?

A. Yes. I gave her my name, told her obviously who I was and gave her my office phone number.

Q. And what's the purpose in doing that, Detective?

A. Just in case maybe she may have thought of something else later on. She may want to contact me with -- about -- or for me to contact her, just so we have an open communication in case she needed to reach me for anything or I needed to reach out to her for anything.

Q. And the next day on December 2nd, 2012 were you working?

A. Yes.

Q. And were you, in fact, contacted by the victim the very next day?

A. Yes, I was.

Q. And tell the jurors what happened?

A. I -- my tour of duty is from 3 p.m. to 11 p.m. I did arrive to work the following day. I received a phone call at our -- at my office. It was the complainant from the Subway job from the night before. She sounded like she was excited on the phone, you know, worked up and -- and then she told me that the person who had just --

MS. MACEOIN: Objection, Your Honor.

MS. LINEHAN: Again, Your Honor, it's

not offered for the truth, but to --

THE COURT: It's on the report. It's part of the report. Go ahead.

THE WITNESS: Yes, sir. She had told me that she -- she's looking at the person who had just robbed her the night before. I then asked her what her location was, where she was at exactly. She told me she was on 10th Street, I believe -- I believe it was 10th and Duncanan (ph) in North Philadelphia. And I asked her, well, how are you sure it's the person. She said, I saw him. I saw his face and he's got the same clothing that he had on the night before. She was in a car she told me, a passenger in a vehicle. This person -- now the person who she says robbed her was walking on foot.

And at one point -- I'm on the phone with her. At this point I did get a police radio, one of our police radios. I went over to the correct band for the 35th District, which was the area of the city that she was in, and I broadcasted that information to have cars come in the area to possibly stop this male while still on the phone with the -- with the victim.

Q. Detective, did she give you the tag number of the car that the individual she identified as the robber got into?

A. Yes. She did say he got into the front seat -- front passenger seat of a Cadillac Escalade. I asked her for the tag number. She did give me the tag number. And at that moment I -- as soon as she gave it to me, I immediately broadcast that over police radio, you know, the vehicle description and the tag number. And within a few minutes that vehicle was stopped by police.
Q. And was the defendant arrested for robbery?
A. Yes, he was.
Q. And was he arrested for armed robbery?
A. Yes.
Q. And did you have contact with the defendant -- with the individual that was arrested for robbery after -- after that occurred?
A. Yes.
Q. Did they bring him to you?
A. Yes. They -- he was transported down to our detective division, Central Detective Division.
Q. Now the person that the victim identified as the individual that robbed her on December 1st, 2012, you had contact with the person that was arrested. Is that right?
A. Yes.
Q. And is that person present in the courtroom

today?

A. Yes.

Q. And can you identify him for the jurors?

A. Yes. The defendant sitting with the blue collared shirt.

Q. Now when you had contact with the defendant after he was arrested, after the victim had said, there's the man that robbed me, what, if anything, did you do with the defendant?

A. I tried to talk to him. He didn't want to give -- he didn't want to speak with me. The clothing that he had on, his sweatshirt and also his sneakers I did recover them from his property, placed them into our custody as evidence.

Q. And I would like to show you what's been -- now been marked as Government's Exhibit 2 and 3. Why did you take the clothing, Detective Andracchio?

A. Because the clothing was described the night of the robbery when I initially interviewed the victim and then she also told me that -- when I was on the phone with her that she -- that he did also have the same exact clothing on as the night of the robbery.

Q. And if you could open Government's Exhibit 2 and 3 and just tell us if you can identify those.

MS. LINEHAN: Your Honor, may I assist

the detective with --

(Pause)

BY MS. LINEHAN:

Q. Now let's start with Government's Exhibit 2. Do you recognize that?

A. Yes.

Q. And what is that?

A. This is the hooded sweatshirt that the defendant was wearing on the night of the robbery and also on the night of the -- or the day of his arrest.

Q. Okay. And Government's Exhibit 3?

A. Again, these are the sneakers that the defendant was wearing the night of the robbery and also on the night of his arrest.

Q. Now, Detective, you've indicated --

MS. LINEHAN: First, Your Honor, I would like to move into evidence Government's Exhibit 2 and 3.

MS. MACEOIN: No objection.

THE COURT: All right.

MS. MACEOIN: That's fine.

(Government's Exhibit Numbers 2 & 3 were admitted)

THE COURT: Go ahead.

THE WITNESS: Thank you.

BY MS. LINEHAN:

Q. Detective, you've indicated that the defendant was wearing those -- that clothing on the night of the robbery and the day that he was arrested, which was the day after. Now that's something that you've testified that the victim told you. But, sir, are you saying yourself that that's what the defendant was wearing on the night of the robbery and, if so, how are you saying that?

A. Yes. I am saying that now because when I did get the chance to review the video this was the clothing that was -- that he had on in the video.

Q. Now I would like to show you what's been marked as Government's Exhibit 1. Do you recognize this CD?

A. Yes.

Q. Detective, is that CD a disc that you reviewed prior to your testimony today?

A. Yes, it is.

Q. And is that a copy of the surveillance footage from the Subway store that you obtained in your investigation?

A. Yes, it is.

MS. LINEHAN: Your Honor, I would move for the admission of the Government's Exhibit 1.

THE COURT: Well, we haven't seen it yet.

MS. LINEHAN: Your Honor, I have the video and I can play it. This is just merely to say that this is a copy --

THE COURT: Okay.

MS. LINEHAN: -- of the original evidence.

THE COURT: Any objection?

MS. MACEOIN: To the CD being introduced at this time?

THE COURT: Yeah.

MS. MACEOIN: Not -- just the authentication provided by the detective is fine. We have no --

THE COURT: Okay.

MS. MACEOIN: -- objection.

THE COURT: Go ahead.

(Government Exhibit Number 1 was admitted)

BY MS. LINEHAN:

Q. Okay. Now I would like to pull up for identification purposes only Government's Exhibit 1-A. Now this is the beginning of a video on your screen, correct, Detective?

A. Yes.

Q. And do you recognize Government's Exhibit 1-A?
A. Yes.
Q. And is that one of the videos -- one portion of the video that the Subway store provided you regarding the robbery?
A. Yes, it is.
Q. And I would like to now show you what's been marked --
MS. SCOTT: May we have one moment, Your Honor? We're having a little difficulty having that pulled up on our screen.
(Pause)
MS. LINEHAN: Your Honor, while they're doing that I could show the detective two quick exhibits, Your Honor, just to keep things going.
BY MS. LINEHAN:
Q. Detective, Government -- I mean, Detective, Government's Exhibit 4 and 5, do you recognize those?
A. Yes.
Q. And what are those?
A. Those are pictures that I took of the -- this sweatshirt and also of these sneakers on the night that they were recovered.
Q. And when did you take those? I'm sorry,

Detective.

A. December 2nd. I'm sorry.

Q. Okay. So Government's Exhibit 4 and 5 are photos that you took of what the jurors have already seen as Government's Exhibits 2 and 3. Is that correct?

A. Correct. Yes.

Q. Why did you take those photos when you took the clothing off of the defendant the day after the robbery?

A. Just to have a record of the evidence, of the clothing evidence.

MS. LINEHAN: Your Honor, I would move for the admission of Government's Exhibit 4 and 5.

MS. SCOTT: Your Honor, we have no objection, but we are still having a technical difficulty. If we could just have a moment to make sure that gets fixed.

(Government's Exhibit Numbers 4 & 5 were admitted)

(Pause)

MS. SCOTT: Thank you, Your Honor.

THE COURT: Well, it's the old story, push the on button.

(Laughter)

THE COURT: All right.

BY MS. LINEHAN:

Q. Okay. So I think we were at Government's Exhibit 1-A. Do you recognize this as the beginning as what has been downloaded from the CD which is one of the -- the beginning portion of the Subway video?

A. Yes.

Q. Okay. And you reviewed that prior to your testimony here today?

A. Yes, I did.

Q. Detective, in your review of these videos that the government is asking you about, did you determine that there were any alterations made to the videos of any sort other than the Government's preparation of them for court today?

A. None.

Q. And have the videos been doctored in any way other than to present them to the jurors in an efficient way?

A. Absolutely not.

Q. Okay. So Government's Exhibit 1-B, Detective, is this the second portion of the relevant video from the Subway store the night it was robbed on December 1st, 2012?

A. Yes.

Q. Okay. Now I would like to play for you Government's Exhibit 1-C which, Your Honor, is an edited version which deletes out of the video any non-relevant time and it will be displayed accordingly, Your Honor.

MS. LINEHAN: So without -- if there's no objection I would like to just play the Subway video which has been edited for purposes of efficiency for the jurors as Government's Exhibit 1-C.

MS. MACEOIN: No objection, Your Honor.

THE COURT: Okay. Go ahead.

UNIDENTIFIED SPEAKER: Publish it to the jury?

MS. LINEHAN: Yeah.

(Video played back at 1:55 p.m.)

(At 1:57 p.m.)

MS. LINEHAN: Can you stop it there?

BY MS. LINEHAN:

Q. Now, Detective, I've asked the agent to pause the video. When you viewed the video in your observation what is the individual that's robbing the Subway store, what is he holding?

A. He's holding a handgun.

Q. And, Detective, you've indicated that you've been a detective for three years and you were a

Philadelphia Police Officer for seven years. If you walked into the Subway store on December 1st, 2012 in the middle of what is happening here, would you have pulled your weapon?

A. Absolutely.

Q. Based on what, Detective?

A. Based on having that firearm pointed at that employee.

Q. Okay. And what is this portion of the video -- and we'll continue it in a minute -- show you as an experienced police officer about this individual that's robbing that store?

A. Watching this video it looks like this -- this male here has handled firearms before and he is -- he knows what he's doing with that gun.

Q. And why do you say that --

MS. MACEOIN: Objection, Your Honor.

MS. LINEHAN: -- Detective?

MS. MACEOIN: Just that it seems like some sort of expert testimony. I'm just asking for some basis.

THE COURT: Sustained. Why don't you just state what you see and that's it?

MS. LINEHAN: Okay.

THE COURT: Go ahead.

BY MS. LINEHAN:

Q. Let me go back to Government's Exhibit 2 which is this sweatshirt. Could you hold up Government's Exhibit 2?

Now, Detective, you testified that based on your observation of the video you believe that the clothes that you took off the defendant the day after the robbery were the same as those in -- in the Subway robbery video. What do you base that on now that you look at the video and have the sweatshirt in your hand?

A. I base it on the color, the design, and the lettering across the front.

Q. Okay.

MS. LINEHAN: Can you continue to play the video?

(Video played back at 1:58 p.m.)

(At 1:59 p.m.)

MS. LINEHAN: Can you pause it right there?

BY MS. LINEHAN:

Q. Now, Detective, were you able to view the shoes that the robber was wearing when he robbed the Subway store?

A. Yes.

Q. And were you able to view those in the video?

A. Yes.

Q. Okay. And I would like to now show you what's been marked as Government's Exhibit 18.

Detective, is that a still photo from the video that was just shown in Government's Exhibit 1-C?

A. Yes, it is.

Q. And in that still photo of the video are you able to better see the shoes that the robber is wearing when he robbed the Subway store?

A. Yes.

Q. And what shoes are they?

A. The shoes right here.

Q. Okay. And are you pointing to Government's Exhibit 3?

A. Yes.

Q. And are those the shoes that you took from the defendant when he was arrested after the victim identified him on December 2nd, 2012?

A. Yes, they are.

Q. Okay. Now, Detective, let's just go back for a moment. At the time when you -- when you had the defendant arrested and you took his clothing -- took photos of his clothing, did you have the benefit of this video at that time, which would have been on December 2nd, 2012?

A. I did not.

Q. And explain to the jurors when you got the video and what, if anything, you did with it once you got it.

A. The video -- again, the night of the robbery we were unable to recover the video. I did not get the video that night. Probably within maybe three to four days after this incident we were able to actually recover the video and get a copy for ourselves, and then I was able to view the video.

Q. Okay. Now in between the time that the defendant was arrested and the time when you were able to get the video did you submit the information to the DA's office to prosecute the defendant, and if you did what happened?

A. When he was -- when he -- yes. When he was -- the video was submitted an arrest warrant was issued for the defendant.

Q. Okay. But I'm saying to you at the time on December 2nd when the defendant was arrested --

A. Okay.

Q. -- did you release him?

A. He was released. Yes.

Q. Why?
A. Our district attorney's office felt that at the time we had -- we would have needed more evidence at the time.
Q. Did they have the benefit of the video?
A. They did not.
Q. Did you have the benefit of the video?
A. When I -- not at that time when he was released.
Q. Okay. And after you got the video did you then resubmit the information to have the defendant re-arrested?
A. Yes.
Q. Okay. Now on the day that the defendant was arrested, December 2nd, 2012, did you search the Escalade that he had been a passenger in when he was arrested?
A. Yes.
Q. And what specifically were you looking for?
A. Looking for the -- for the handgun. We were looking for the gun.
Q. Did you find it?
A. No.
Q. Did you find any other evidence of the robbery?

A. No.
Q. Who was driving the Escalade?
A. It was a female. I believe her name was Tish, Tisha, I believe her name was. She was the one driving the Escalade.
Q. And was the defendant the owner of the Escalade?
A. No, he was not.
Q. Was the defendant the driver of the Escalade?
A. The driver was the owner. No, the defendant was not the driver. He was a passenger in the Escalade.
Q. Okay. So the female, a woman named Tisha Steven (ph), was the driver?
A. Yes.
Q. Was she the registered owner of the Escalade?
A. She was.
Q. And did she indicate that she was a family member of the defendant?
A. No. I -- I had asked her how she knew the defendant and she told me that he was --
MS. MACEOIN: Objection, Your Honor. Hearsay.

THE COURT: Sustained.

MS. LINEHAN: That's fine, Your Honor. I'll move on.

BY MS. LINEHAN:

Q. You indicated that the DA's office agreed to the arrest warrant that you requested and that was done when, Detective, do you recall?

A. I -- yes. The warrant was signed and -- on December 6th.

Q. Okay. And was the defendant subsequently rearrested for the armed robbery of the Subway store?

A. Yes, he was.

Q. Okay. Now after you viewed the surveillance video in your case did you have occasion to see another video that prompted you to take additional steps with another detective in another part of the city?

A. Yes, I did.

Q. And explain that to the jurors.

A. We -- there's a -- there's a website, a YouTube website that the Philadelphia police uses similar types of jobs where there's video surveillance of an incident and, you know, without an arrest those videos are placed on this YouTube channel.

I happened to just be perusing through some videos on there and I had come upon a robbery that had occurred at Third and Shelton on the same night as this robbery, December 1st, 2012. That second robbery happened approximately an hour and a half after this job. During that video surveillance the front door, which was shown on the surveillance video shows a male who was the alleged perpetrator coming into the establishment. It was a -- I believe it was an Anna's -- Anna's Linens store.

Watching that video -- again, after watching this video -- I was convinced that it was the same person. With that information I passed it onto a Detective Flacco who works in the Northwest Detective Division and subsequently from that an identification was made of the same male in that robbery.

Q. And I would like to show you what's been marked as Government's Exhibit 8 and Government's Exhibit 15.

Detective, what is Government's Exhibit 8?

A. This is a still frame from the surveillance video from the Anna's Linens job.

Q. Okay. And is that a photo from the Anna's Linens video that you've just described that you viewed on the YouTube or the police YouTube?

A. Yes, it is.

Q. And what is Government's Exhibit 15?
A. This is a -- this is a photo still from the video that was recovered from the Subway sandwich shop at 545 North Broad Street.
MS. LINEHAN: Your Honor, I would move for the admission of Government's Exhibits 8 and 15 which are still photos from each of the videos of each of the robberies that night.
MS. MACEOIN: No objection, Your Honor.
THE COURT: All right. They're admitted.
(Government's Exhibit Numbers 8 & 15 were admitted)
MS. LINEHAN: And permission to publish first 8 and then 15.
MS. MACEOIN: No objection.
THE COURT: Okay.
(Pause)
MS. LINEHAN: Your Honor, now I would ask permission to show the detective and the jurors what are blown up side by sides of still photos from each of the robberies, if I might.
THE COURT: They're only looking at 8 now.
MS. LINEHAN: Your Honor, it was 8 and

then 15.

THE COURT: Okay.

BY MS. LINEHAN:

Q. Detective, if you could just step down and view this board.

Now, Detective, you just indicated that you alerted Detective Flacco that you believed the man that robbed Anna's Linens store was the same as the man that had robbed the Subway store. And can you just explain from this blowup what you based your conclusion on or your opinion?

A. Well, it's pretty simple. First, the face, same nose, same nose.

MS. MACEOIN: Your Honor, I would just object at this time as to whether this officer is basing his opinion on his lay impression or whether he has any specific training in this type of specific --

THE COURT: The jury has seen both photos.

MS. MACEOIN: Certainly.

THE COURT: They can make their own judgment. He's saying what caused his -- him to make his judgment.

MS. MACEOIN: Very well.

THE COURT: The jury doesn't have to

believe it, but it's right there for them to look at.

MS. LINEHAN: Go ahead, Detective.

THE WITNESS: Based on the face and also based on his hat that he's wearing. That's the same type of marking here on the front. You can see the same thing, the marking here on the front. And, also, the -- his stature and the mannerisms when he -- again, when I watched the videos -- they're obviously videos, you know, movement and stuff like that and that's what I based my judgment on. And I felt convinced enough that it was the same male to make contact with that detective that was assigned to the Anna's Linens case.

BY MS. LINEHAN:

Q. Now you had the benefit -- thank you, Detective -- of both videos in their entirety, did you not?

A. Yes.

Q. And so these are just two photos taken from each of the videos, but you had seen --

A. Correct.

Q. -- both of the videos.

A. Correct.

Q. Is that right?

A. Yes.

Q. Had you -- when you arrested the defendant on December 2nd, 2012 had you processed him pursuant to that arrest and taken his photograph and his fingerprints?
A. Part of process, yes. It's -- I did not do it myself, but, you know, our CCTB personnel, yes, he was fingerprinted and he was photographed that night.
Q. Okay. Now, Detective, you indicated that the Subway robbery occurred at 5:40 and that was on 545 Broad Street. Is that right?
A. Right.
Q. What section of the city is that in, Detective?
A. That's the Spring Garden section.
Q. All right. And is that considered Center City?
A. Yes. It's Center City.
Q. And the second armed robbery at Anna's Linens, are you aware of what time that occurred?
A. I believe that was around 7 -- I think right around 7:30, 7:15, 7:30 that night.
Q. Detective, can you tell the jurors the approximate distance between the Subway store that was robbed and Anna's Linens?
A. Yes. It's approximately maybe 5.8 miles,

five and a half miles distance.
Q. And would someone be able to get to Germantown to the Anna's Linens from the Subway in an hour and a half?
A. Sure.
Q. Now let's talk, Detective, about the gun. In this case the defendant is charged with using a gun in furtherance of both robberies. I would like to show you what's been marked as Government's Exhibit 13.
Do you recognize this?
A. Yes.
Q. And, again, is that a still photo from the Subway robbery video?
A. Yes, it is.
Q. Now using that photo can you tell the jurors, based on your experience as a police officer, why you believe that to be a real gun?
A. Well, one it -- I've seen many guns being in the position that I am in, and also the way that he is holding it, the way he has his finger outside of the trigger guard and the way that it's pointed, kind of kept close to his body and how it's pointed to the complainant, as soon as I saw this I immediately recognized it as a handgun and I do believe that this,

you know, is a real gun.

Q. And Government's Exhibit 14, is that also a still photo from the robbery?

A. Yes.

MS. LINEHAN: Your Honor, I would move for admission of Government's Exhibits 13 and 14, and permission to display 14.

MS. MACEOIN: I have no objection, Your Honor.

THE COURT: Go ahead. Admitted.

(Government's Exhibit Numbers 13 & 14 were admitted)

BY MS. LINEHAN:

Q. Is there anything about what you see in Government's Exhibit 14 that allows you to conclude that it's a real gun that was pointed at the young woman that worked at the Subway that evening?

A. Yeah. Again, the same thing like I said about the other exhibit, the way he's holding it, the way he has it down, the way he has his finger outside of the trigger guard. You know, this again shows, to me, obviously that this is a real gun.

MS. LINEHAN: Your Honor, I'm almost finished. I would just ask for a moment to move in the Government's Exhibits.

Your Honor, at this time the government has moved in Government's Exhibits 1, 1-A, 1-B, 1-C, 2 and 3, 4 and 5, 14, 15, 8. I believe that's it, Your Honor, unless I've forgotten --

THE COURT: Any objection?

MS. MACEOIN: No, Your Honor.

THE COURT: Okay. They're admitted.

(Government's Exhibit Numbers 1-A through 1-C were admitted)

MS. LINEHAN: And I have no further questions for the detective at this time.

THE COURT: All right. Cross-examine?

MS. MACEOIN: Certainly.

CROSS-EXAMINATION

BY MS. MACEOIN:

Q. Good afternoon, Detective.

A. Good afternoon.

Q. I would like to start with that last testimony you gave about the gun. You said very specifically that you believe that this is a gun, correct?

A. I believe that it is a gun.

Q. You have no hard evidence that this is a gun, correct?

A. I do not.

Q. Right. You didn't recover anything?
A. No.
Q. Okay. And, again, you got the search warrant for the Escalade because that could potentially hold evidence which could have been involved in this robbery, correct?
A. Correct.
Q. Okay. So as the detective on the case, the fact you're the lead detective, you would have issued search warrants for any place that you think that you had probable cause to search to find this gun, correct?
A. Uh-huh.
Q. And you -- I'm sorry?
A. Yes.
Q. And you applied for one search warrant, correct?
A. Correct.
Q. Also you did not find any money, is that correct?
A. Correct.
Q. Now I want to take you back to the 1st of December, 2012.
A. Yes.
Q. So the night of the Subway robbery, when it

was called in, you responded to the scene, correct?
A. Correct.
Q. And I think it was Officer Winckler was also on scene?
A. Yes.
Q. All right. Were there any other uniformed officers?
A. There were other officers, some supervisors. I can't recall who else was there. Winckler was the -- I believe the first one there. I know he's the one who wrote the initial report.
Q. And so you spoke to him first when you got there, correct?
A. I can't recall who I spoke to first.
Q. Okay. But did you speak to Ms. Headen at the scene?
A. Ms. Headen? I did speak to her at the scene, yes.
Q. All right. And how did she appear to you at that time?
A. She appeared -- she appeared shooken up. She appeared scared or nervous and just worked up, generally.
Q. So you took a statement from her right there in the Subway, right?

A. Yes. Not as soon as we came in. Probably a few minutes afterwards. Inside the Subway, yes.
Q. And did you that night take her back to Central Detectives?
A. Not that night, no.
Q. All right. So I'd like you to -- there's a defense binder up there. Defense Exhibit B, the tab marked B. Correct.
A. Yes.
Q. Do you recognize that?
A. Yes. Yes, I do.
Q. Can you please explain to the ladies and gentlemen of the jury what that type of form is?
A. This is an interview record -- interview sheet, pretty much.
Q. Okay. And is that sometimes called a 7543?
A. 7543, yes.
Q. All right. And this is a record -- a two-page record of your conversation with Ms. Headen, correct?
A. Yes.
Q. And was this taken at the Subway at the time?
A. This was taken at the Subway, yes.
Q. Okay. So in there, you basically asked her

what had happened, correct?

A. Yes.

Q. And she answered your questions.

A. Yes.

Q. And if you look about the third question down, she does describe -- you asked, "Did the person have a gun?" Correct?

A. Yes.

Q. And she said, "Yes, a black semi auto."

A. Uh-huh. Yes.

Q. Okay. Did you follow up with any other questions about that?

A. I did not.

Q. The next question was "Can you describe the person and what he looked like?" Correct?

A. Yes.

Q. And her answer was "A black male, about 5'8", thin build, salt-and-pepper hair and beard, wearing gray jeans, black and gray jacket with lettering on the front and a sculley. He had black and white New Balance shoes. He was about 35 to 40 years old." Is that what that says?

A. That's what it says, yes.

Q. Okay. Are you aware if she gave any other description to anybody else?

A. Not that I'm aware of.

Q. All right. And then the second page, the second to last set of questions, you asked her, "Did you see which way he went?" Is that a yes?

A. Oh, I'm sorry. If that's the question, yes.

Q. Okay. Now when you asked that question, were you referring to when the person left the store?

A. Yes.

Q. Okay. And she --

A. The direction that the person took after he left the store, yes.

Q. Okay. And she replied "No."

A. Correct.

Q. All right. So let's take a moment to fast forward the next day when you received a call from Ms. Headen.

A. Okay.

Q. Okay? So that you were at the station?

A. Yes, I was.

Q. All right. So you get this call and you said that you put a description out on the band for the 35th district, is that correct?

A. Yes.

Q. All right. And so this is kind of north central Philadelphia, right?

A. Yes.

Q. And this area of 10th and Buchannan, it's several miles from the Subway at 5th -- or, excuse me -- at Spring Garden and Broad, correct?

A. It's probably about -- yeah, it's about several miles, yes.

Q. Okay. And this is several miles also away from the Germantown section of the city, correct?

A. A few miles, yes.

Q. Okay. So she tells you that she sees the person that she thought had done this robbery, correct?

A. Well, her words were the person that had done the robbery, yes.

Q. Okay. So you told her to tell you where she was.

A. Yes.

Q. Now did you tell her to follow him or she just did that?

A. She said I'm following him. So I said give me -- and I asked her for a description of him.

Q. And what did she tell you in that description?

A. She said -- first -- all she's telling me that it was the male who robbed me. And it's him. I recognized him and he has the same clothing that he has -- that he had on the night before during the robbery.

Q. Okay. And did she, at that time when she's on the phone with you, tell you a physical description of the person?

A. Well, I didn't ask her for the physical description because I was basing it on her interview.

Q. From the day before.

A. From the day before.

Q. So you did not see Mr. Robinson until he was taken to Central Detectives, correct?

A. Correct.

Q. And that was several hours later? Between the time you received the call from Ms. Headen?

A. It may have been -- probably a few hours maybe, maybe within two to three hours.

Q. Okay. So you didn't go out to North Philadelphia where he was picked up, correct?

A. No.

Q. And from your understanding, he was taken to the 35th district first, another police district.

A. Yeah. I'm not -- I'm not sure exactly where he was taken between the stop and also to our detective division. I'm not sure where he was taken between then.

Q. Okay. Are you aware of whether anybody else questioned him?

A. I was not.

Q. Are you aware whether anybody else took any evidence?

A. Not that I'm aware of.

Q. Okay. But when he arrived at Central Detectives, it's your testimony that he was wearing those clothing, correct, the clothing that's been marked as G?

A. The clothing was -- the sneakers he was wearing. The shirt, he was not wearing at the time because the procedure is to take outermost garments when they're put into our cell room. And you're only allowed to wear one t-shirt or whatnot. So the sneakers he had on. I did recover them from him. The shirt, I had to go into his property and take that -- I'm sorry -- the sweatshirt I had to take from his property.

Q. When you say his property, so he was already in a cell when you encountered him?

A. No. He was -- the procedure is when he's arrested, they're brought down to our cell room. Pretty much process. Paperwork's done, medical paperwork. They brought them in there. And then he was brought up -- I'm not sure he was brought -- why the officers brought him up to our office where our interrogation room is or where our, you know, where our computers are and everything like that. So --

Q. So when he was brought into where you saw him in the interrogation room, he was not wearing that sweatshirt, correct?

A. I don't believe he had that on, no.

Q. And did you already take his sneakers or did you take them at that point?

A. I think -- I tried to talk to him. I wanted to see if he wanted to speak with me about anything at which point he declined. And at that point, I did take his sneakers and then I did proceed to take his sweatshirt.

Q. Okay. But again, this was a sweatshirt handed to you by another officer that had taken?

A. I had to go down to take it from the cell room.

Q. Okay. So you got the sweatshirt from the cell room not from Mr. Robinson, correct?

A. Yes. Right.

Q. All right. Do you know how long it was that he was in the custody of Central Detectives before he

was brought up to interrogation?
A. Not that long. It was less than an hour. So it wasn't that long. He was actually in our building before --
Q. Okay. But you're not sure of the exact time.
A. I'm not sure of the exact time, no.
Q. Do you know how many other people were being processed at that time?
A. I do not know.
Q. Do you know how many other people were in the holding cell at that time?
A. I don't know.
Q. Okay. So when you photographed the sweatshirt and the shoes, they were laying separate -- they were laying on the ground or something, correct? They were not on a person.
A. Right. Right. They're not on the person.
Q. And that's in the previous government exhibits.
A. Correct.
Q. Okay. Did you take a photo of him wearing the shoes before you removed them?
A. I did not.
Q. All right. You also -- was it you that took

his photograph?
A. His photograph?
Q. Uh-huh.
A. No.
Q. Okay. Did you take his fingerprints at all?
A. I did not.
Q. Okay.
MS. MACEOIN: Court's indulgence for just one moment.
BY MS. MACEOIN:
Q. Now when you applied for this arrest warrant, you applied to an individual in the district attorney's office, correct?
A. Yes.
Q. Okay. And this particular district attorney for the Commonwealth of Pennsylvania -- or the city of Philadelphia rejected your first arrest warrant because, as he -- in sum, he stated that there was not evidence to arrest him, correct?
A. Well, it wasn't an arrest warrant. It was the actual arrest. But, yeah, the charges were declined, yes.
Q. The charges were declined because there was not enough evidence to bring the charges at that point, correct?

A. Well, the DA explained that the evidence that we did have, yes, wasn't enough.

Q. Okay. As he put it, it was a "cold ID", correct?

A. Correct.

Q. What does that mean, cold ID?

A. I guess just an ID made several hours or some -- like, I guess a certain amount of time in between when the incident happened to when the person was ID'd.

Q. Okay. You're guessing?

A. I'm guessing.

Q. Okay. Is that a legal term that you're familiar with or you're just guessing based on the context of --

A. I mean, I've heard the term used before. I've never really seen a definition of it actually printed out. So --

Q. So --

MS. MACEOIN: Court's indulgence. Your Honor, I believe at this time I don't have any further questions for this witness.

THE COURT: All right. Thank you. Recross -- redirect?

MS. LINEHAN: Thank you.

REDIRECT EXAMINATION

BY MS. LINEHAN:

Q. Detective, why didn't you get a search warrant of other places to look for evidence in this case?

A. Because there were several addresses listed for the defendant none of which can be verifiable -- not enough information to verify to get a search warrant for this address.

Q. So the defendant didn't have a known address where he lived, is that right?

A. Correct.

Q. And when you were asked about the particular assistant district attorney who declined, did the district attorney instruct you to get the video evidence from the Subway for more corroboration --

A. Yes.

Q. -- as part of your resubmission to them?

A. Yes.

MS. LINEHAN: No further questions, Your Honor.

THE COURT: Anything else?

MS. MACEOIN: No, Your Honor.

THE COURT: All right. You may step down. Thank you.

THE WITNESS: Thank you, Your Honor.

THE COURT: Whose your next witness?

MS. LINEHAN: The government calls Officer Timothy Auty.

THE COURT: Come on up.

THE REPORTER: Please raise your right hand.

TIMOTHY AUTY, GOVERNMENT'S WITNESS, SWORN

THE REPORTER: Please state your name for the record and spell your last name.

THE WITNESS: Police Officer Timothy Auty, A-U-T-Y, badge number 7177, 35th district, Philadelphia.

THE REPORTER: Thank you.

DIRECT EXAMINATION

BY MS. LINEHAN:

Q. Officer Auty, you indicated that you are a Philadelphia police officer. Were you working on December 2nd, 2012?

A. Yes, I was.

Q. And on that day, did you get a call for an assist regarding a possible car stop?

A. Yes.

Q. And can you explain to the jurors what happened?

A. Sure. I received direct information via my police radio from Detective Andracchio himself that a female had observed a male that robbed her the previous night at a Subway food store that was -- and he was in the area of 10th and Wagner. I proceeded to that area and while I was en route, I received another transmission from Detective Andracchio that the male had come out of a corner store and gotten into a black Cadillac Escalade. He did provide me with the tag. If I can read from my notes, to read it, the tag was Pennsylvania JVW2796 and it was on Duncannon Street -- or in the area of 10th and Duncannon Streets on Duncannon. Again, I was still proceeding to that area when that message came over my radio. I was on 10th Street driving southbound. I approached Duncannon Street and made a right turning eastbound on Duncannon. As I pulled onto the street, I saw a black Cadillac Escalade coming at me in my direction. I immediately drove -- it was coming at me so I drove past it and turned around. As I turned around, I verified the tag matched the tag that the detective had given me over police radio and I initiated a car stop. At that time, I had backup officer pull behind me. I notified him real quick what was going on although he knew, too, because he had a police radio.

MS. MACEOIN: Objection just to what somebody else knew, Your Honor.

THE COURT: He's saying what he did. Go ahead. Do not testify what someone else said. Go ahead.

THE WITNESS: Okay. I activated my patrol car and approached the passenger side of the vehicle because I knew that the male was in the passenger side from when I was driving towards the vehicle and saw that there was a female driving a male in the passenger seat front and another female in the back.

I proceeded to the passenger side because I knew that the male that she ID'd as robbing her was on the passenger side as per her statement. And I approached the passenger side of the vehicle, asked the male who I later identified as Mr. Robinson, I asked him to step out of the vehicle and place his hands on the hood. Because I knew that he was positively ID'd for a point of gun robbery, I thought maybe he might have a weapon on him. So I performed a frisk for my safety. Once I knew he had no weapon on him and that it was safe, I detained him in the black of my police car and my backup officer proceeded to the next block behind me where the complainant who had called Detective Andracchio was sitting in her car, to talk to her for a brief second and informed me to take Mr. Robinson and have him face her so that she could give another positive ID and she gave her thumbs up that that was -- or he gave his thumbs up that she positively ID'd him again.

Q. And did you place him under arrest for robbery?

A. At that time, I placed him under arrest for robbery, yes.

Q. When the victim who had called Detective Andracchio, when she was viewing the individual that you had taken out of his car, did you have your gun to his head or to any part of his body?

A. No.

Q. Did you have your gun drawn?

A. No. No.

Q. Was -- did you have the individual in handcuffs when the victim viewed him?

A. I may have had him in handcuffs but, again, I was all in right because he was already positively ID'd at the -- for a point of gun robbery so he was already under arrest at that point anyway.

Q. And did you suggest or did Officer Dooley suggest to the victim in your presence anything that

would cause her to identify him?
A. I never spoke to her and Officer Dooley did not suggest anything to her.
Q. And when you said that you had taken the defendant out of the car, you indicated you later identified him as Anthony Robinson. Is the person that you took out of the car, the victim identified, is that person in the courtroom today?
A. Yes. It's the male sitting right behind you with the blue shirt.
MS. LINEHAN: Your Honor, let the record reflect the in-court identification of the defendant.
BY MS. LINEHAN:
Q. When the victim viewed the defendant and identified him as the person that had robbed her the night before, was the defendant flanked by police?
A. No. It was just myself.
Q. And where was the officer that was assisting you?
A. Officer Dooley was talking to her at her vehicle roughly one block behind where I had the male stopped, roughly about a block.
Q. How far were you from the black Escalade when you first received the information?

A. Again, I was within feet 'cause, like I said, as I was driving southbound on 10th Street making a right on Duncannon, the vehicle was coming at me westbound. I was then going eastbound and the vehicle was coming at me westbound. So we started out maybe 50 feet away but we were driving at each other so we only got closer to each other.

Q. After you arrested the defendant, where did you take him?

A. I took him to the 35th district headquarters --

Q. And --

A. -- where he was later transported to Central Detectives which is down in Center City.

Q. And is that where Detective Andracchio works?

A. Yes.

MS. LINEHAN: No further questions, Your Honor.

CROSS-EXAMINATION

BY MS. MACEOIN:

Q. Good afternoon, Officer.

A. Good afternoon.

Q. So on the 2nd of December, 2012, when you stopped the black -- or, excuse me -- the Cadillac

Escalade that you just described --
A. Yes. The black Escalade, yes.
Q. -- okay, again, Mr. Robinson was sitting in the passenger seat, correct?
A. That's correct.
Q. And you -- as you approached the car, did you have your weapon drawn?
A. As I approached the vehicle, yes, I did have my weapon drawn because, like I said, the male was already positively ID'd for a point of gun robbery. So for my safety, I don't know if this male is armed or not so I did have my gun drawn initially.
Q. Certainly. And then you opened the door?
A. No. As soon as I approached the window, I told the male let me see his hands. He put his hands like that. I then holstered my weapon, opened the door and asked the male to step out of the vehicle. And he did.
Q. Okay. And he complied with you, correct?
A. Yes, he did.
Q. He didn't try to run.
A. No.
Q. He didn't resist.
A. No.
Q. Okay. So you get him out of the vehicle.

A. He stepped out, yes.
Q. He stepped out, correct. And you placed him in handcuffs?
A. I asked him to put his hands on the hood so I could perform a frisk --
Q. That's --
A. -- for my safety to make sure he had no weapons on him. And then I detained the male, yes.
Q. Now when -- you said that Officer Dooley had Ms. Headen, or the person who called the police, up the block. Was Mr. Robinson -- was he in handcuffs at that time?
A. Like I said, he was already placed under arrest because he was already identified by her as the male who robbed him (sic) so he was under arrest for robbery, yes.
Q. Okay. So he did have his hands cuffed.
A. Yes.
Q. I just -- that's all I'm asking. And were you alone or did you have a partner with you?
A. I was alone.
Q. All right. But you were wearing your uniform like you are today?
A. Yes.
Q. So you also completed some paperwork in this

case, correct?
A. That's correct.
Q. All right. So there's two documents that you completed. If you'll look, there's a binder up on the defense stand -- or the witness stand. There's a black binder.
A. Yes.
Q. If you look at tab F --
A. Yep.
Q. -- and tab G.
A. Okay.
Q. We'll start with tab F.
A. Okay.
Q. So tab F, is this paperwork that you completed?
A. Yes. Tab F is my 7548 -- I'm sorry -- 7548A which is my investigation of the vehicle and the occupants in it.
Q. And the purpose of the 7548A is just to document the nature of the stop of a vehicle and then whether there was a search and who was in the car, correct?
A. That's correct.
Q. So on there, you completed, for example at the top, the location of the stop at 1000 West

Duncannon, correct?
A. Yes, that's correct.
Q. And then you described -- there's a little narrative in the middle about the vehicle stop, correct?
A. That's correct.
Q. And in there, you describe -- I'm sorry. You also talk about the search of the individual, correct?
A. Yes, that's correct.
Q. And then on the second page, at the top, you have a section that's marked pedestrian/passenger #2.
A. That's correct.
Q. Right? And there you have Tony Robinson.
A. That's correct.
Q. So you have his physical description. And was that based on what you were observing at the time?
A. That's correct.
Q. And it says here 5'10", correct?
A. Yes, that's correct.
Q. Now it says "Weight". Can you tell me what that says? It says "Approximately 160".
A. "Approximately 160". That's just my approximate guess at the time.
Q. And the same with height.

A. Yes, that's correct.
Q. And are you -- can I just -- how do you determine someone's height? Is it based on how tall you are?
A. Yes.
Q. And how tall are you?
A. I'm about 6'2".
Q. Okay. So you're estimating this person's a few inches shorter than you.
A. That's correct.
Q. Okay. Build. It says "Medium".
A. Uh-huh.
Q. Eye color and hair color, it says "Brown", correct?
A. Yes. Brown and black.
Q. Okay. And then facial hair, it says "Moustache and beard"?
A. That's correct.
Q. Complexion is medium?
A. That's correct.
Q. And then under "Further Description, scarves, clothing, etc.", you write "Gray hat". It says "Bl jacket". Is that black jacket?
A. It says "Blk" for black jacket.
Q. Black jacket and blue jeans, correct?

A. That's correct.
Q. And that's all you filled out in that section.
A. That's correct.
Q. So this was -- was this done at the scene?
A. This 7548A was done at the scene, yes.
Q. So that's literally while he's in the car. You're waiting to transport him to the station.
A. That's correct.
Q. You stopped and filled this out.
A. That's correct.
Q. So then if you can turn to tab G.
A. Yes.
Q. This is what's called the 75229, correct?
A. That's correct.
Q. Can you explain to the ladies and gentlemen of the jury what that is?
A. 75229 is basically when a prisoner is taken to headquarters, there's two pieces of information that need to be filled out. One is a medical checklist to make sure that he's medically fit to be held in a police facility and another is this 229 which is just a brief description of the male, what he's wearing, his height and weight, the date you brought him in, the time you brought him in. Just

general information.

Q. So it says at the top, "Biographical Information Report", correct.

A. That's correct.

Q. So there we have a top section, the first three lines have the date and the time, the location of arrest, the district and then what's called a DC number, correct?

A. That's correct.

Q. And then you have his name. And then you have the same physical description that you have -- that you had marked on the 7548A, correct?

A. That's correct.

Q. But you also have here "Build", you have "Skinny", is that correct?

A. That's correct.

Q. You have he does not wear glasses.

A. Correct.

Q. Then you have, it looks like, a residence, correct?

A. That's correct.

Q. And that's an address in Maryland, correct?

A. Yes.

Q. All right. So the next line that I'm going to start where it says "Social Security Number" -- you don't have to read the social security number. And the next one, two --

A. The next line would be "Type of Residence, house, resides with self".

Q. Oh, I'm sorry. The line after.

A. That's correct.

Q. And those one, two, three, four, five, six -- those next lines, that looks like noticeably different handwriting from you.

A. That's correct.

Q. Did you complete that?

A. Not that section, no, I did not.

Q. Okay. Now I want to flip to the second page momentarily.

A. Yes.

Q. Two-thirds of the way down, there's one line that has "Investigating Officer", correct?

A. Yes. And that's my last name and badge number.

Q. Okay. And you completed that, correct?

A. That's correct.

Q. So who completed that middle section of the first page?

A. The wagon crew that transported him from the 35th district to Central Detectives.

Q. Okay. So that was after he left your custody.
A. That's correct.
Q. So you had completed the top part of this form, correct?
A. That's correct.
Q. The part listed under "Vehicle Information" you completed, correct?
A. Correct.
Q. And then you signed off as being the investigating officer who authored this report, correct?
A. Correct.
Q. But his description of clothing as well as whether he has scars or tattoos, the place of birth and his social security number, that was filled out by somebody else.
A. By the wagon crew, yes.
Q. Okay. But you don't know who that is.
A. I don't know who the wagon crew was that day. But there are -- there is documentation as to who was working that day.
Q. Okay. And was this filled out in your presence?
A. No, it was not.

Q. Do you know if it was completed at the 35th district or when it was at Central?
A. It was completed at Central Detectives.
Q. Okay. And you don't know how soon after the people arrived that it was completed at Central Detectives, correct?
A. Repeat that.
Q. I'm sorry. You don't know -- because you don't know who completed it and he was out of your custody, you don't know how long he was at Central Detectives before this was completed, correct?
A. Well, I do know that as soon as I -- myself and the wagon crew pulled up together and they took Mr. Robinson inside while I went up to Detective Andracchio and handed him my paperwork. So as soon as we got there and they brought him into intake, they would have filled that out.
Q. Again, you're guessing because you don't -- you weren't there when it was filled out.
A. I just -- I know what protocol is. So if you want to call that guessing, that's fine. I'm guessing but --
Q. Okay. So the normal protocol, as you're testifying, is that that gets completed after he's taken to Central --

A. That's --
Q. -- after he's being processed, correct?
A. That's correct.
Q. All right. Now that description -- and if you can just follow along with me -- it says "Black skull cap" --
A. Yes.
Q. -- "black hoodie" --
A. Yes.
Q. -- "gray jeans" --
A. Correct.
Q. -- "and black shoes", correct?
A. That's correct. That's what it says.
Q. Okay. Is that a complete description that I just read off in that section?
A. You read off what that says, yes.
Q. Okay. Now after you left him at Central Detectives, you did not have any other contact with him, did you?
A. No.
Q. Okay. Did you ever view the video in this case?
A. Did I view what?
Q. Any sort of surveillance video?
A. I did not, no.

Q. Okay.

MS. MACEOIN: At this time, I don't have any other questions, Your Honor.

REDIRECT EXAMINATION

BY MS. LINEHAN:

Q. Officer Auty, the Defense Exhibit G --

A. Yes.

Q. Do you have it there in front of you, sir?

A. Yes, I do.

Q. Where does it say that the defendant was from city state and -- city and state?

A. Where it says "Residence and Street Name"?

Q. Yes.

A. It says 8660 Welbeck Way from Gaithersburg, Maryland.

Q. Okay. And who, according to this piece of paper, owned the Cadillac Escalade that the defendant was a passenger in?

A. Who owned the Escalade? Pisha Stevens.

Q. Okay. And, Officer, I'd like for you to look what's in front of you as Government's Exhibit 2, that last piece of clothing.

A. Oh.

Q. And if you could, hold it up.

A. I sure can.

Q. Do you recognize that, Officer?
A. Yes, I do.
Q. And how do you recognize that?
A. This is what Defendant Robinson was wearing the day that I stopped him.
MS. LINEHAN: No further questions, Your Honor.
MS. MACEOIN: Very briefly, Your Honor.

RECROSS-EXAMINATION

BY MS. MACEOIN:
Q. Officer Auty --
A. Auty, yes.
Q. -- on December of 2012 --
THE COURT: Auty.
MS. MACEOIN: I'm sorry.
THE WITNESS: Auty.
MS. MACEOIN: You're right. Officer Auty. My --
THE WITNESS: That's okay.
MS. MACEOIN: -- mistake.
THE WITNESS: That's okay.
THE COURT: Confusing him with the car.
MS. MACEOIN: I am.
THE WITNESS: You're not the only one.
BY MS. MACEOIN:

Q. This was in December of 2012.
A. That's correct.
Q. Are you still in that district?
A. Yes, I am.
Q. Have you stopped any -- I assume that you've stopped many other individuals.
A. That's correct.
Q. Okay. Do you -- in each case, do you write down a description of what they were wearing?
A. Yes.
Q. All right. And how do you know that that was the exact -- let me ask you this. In your description, you don't write down that there was writing on the sweatshirt, correct?
A. Sometimes I may, sometimes I may not. I just remember this is what he was wearing.
Q. This is December 2nd of 2012.
A. Yes.
Q. How many stops do you think you've participated in since then?
A. Hundreds maybe. Well, maybe not hundreds but somewhere in the range 1 and 200.
Q. Okay.
A. 200 maybe. I mean, it's a busy district.
Q. It is a busy --

A. But I have a very good memory.
Q. Okay. Thank you.
MS. MACEOIN: And, Your Honor, just --
THE COURT: He remembers his name.
MS. MACEOIN: He does. And, Your Honor, just Defense would like to move in as Defense Exhibit 1 the 7548A and Defense Exhibit 2, the 75229.
THE COURT: Okay. Admitted. That's it?
MS. LINEHAN: For Officer Auty.
THE COURT: Okay. Officer, you're excused.
MS. LINEHAN: No, Your Honor. I have told Officer Auty that if he were excused, he is potentially to be called back but for today's purposes, we don't need his testimony any longer.
THE COURT: What do you mean potentially?
MS. LINEHAN: As a possible rebuttal witness, Your Honor.
THE COURT: Oh, okay. Don't count on it. All right. We'll take a ten minute break.
(Jury out)
(Recess from 2:39 p.m. until 2:54 p.m.)
MS. LINEHAN: Your Honor, Detective

Flacco.

THE COURT: Let's get him in here.

(Pause)

THE COURT: Come on up.

(Jury in)

THE COURT: We're back. And who's your next witness?

MS. LINEHAN: Your Honor, Detective Mark Flacco.

THE REPORTER: Please raise your right hand.

MARK FLACCO, GOVERNMENT'S WITNESS, SWORN

THE REPORTER: Please state your name for the record and spell your last name.

THE WITNESS: Detective Mark Flacco, M-A-R-K, F-L-A-C-C-O.

MS. LINEHAN: May I, Your Honor?

THE COURT: Go ahead.

DIRECT EXAMINATION

BY MS. LINEHAN:

Q. Detective, how are you employed?

A. I'm a detective --

THE COURT: Happily.

MS. LINEHAN: Happily?

BY MS. LINEHAN:

Q. Other than happily, do you work --
THE COURT: Where do you work?
THE WITNESS: Northwest Detectives of Philadelphia Police Department.
BY MS. LINEHAN:
Q. And how long have you worked there?
A. Eight years.
Q. And have you been a detective that entire time?
A. Yes, I have.
Q. And can I direct your attention to a robbery that occurred at Anna's Linens on December 1st, 2012?
A. Yes.
Q. And did you respond as the lead detective in that case to investigate it?
A. Yes, I did.
Q. Where is Anna's Linens?
A. It's on the 300 block at Chelten Avenue in a shopping center area.
Q. And what section of the city is that in?
A. That is considered Germantown.
Q. And how far is that approximately from Center City?
A. I think it's about five to seven miles north of Center -- depends how you drive. You can go up to

Schuylkill, you can go up to Broad Street. There's all different ways.

Q. Detective Flacco, did you respond to Anna's Linens that evening?

A. Yes, I did.

Q. And did you meet with the victim of that robbery?

A. Yes, I did.

Q. What is that individual's name?

A. His name is Ezekiel Logan.

Q. And did you get information from him about the robbery?

A. Yes, I did.

Q. And what did he tell you had occurred?

A. He told me that --

MS. MACEOIN: Objection, Your Honor. Hearsay.

THE COURT: What's in your report? What happened?

THE WITNESS: He was working the cashier counter at the Anna's Linens store.

THE COURT: Somebody came in?

THE WITNESS: A male came in, picked up two pillows, came to the counter, purchased the pillows and then turned around, showed a waistband in his gun -- a gun from his waistband, demanded money. Mr. Logan asked what he had said. He didn't understand what he said. And the defendant pulled the gun from his waistband, pointed it at him, said don't die over money.

BY MS. LINEHAN:

Q. And did the victim give the defendant money?

A. Yes, he did.

Q. And how much money did he give him?

A. It was 750 dollars, I believe.

Q. Okay. Did the victim describe the gun that was used?

A. Yes, he did. He described it as a black automatic handgun.

Q. And did the victim give a physical description of the person that had robbed him?

A. Yes, he did. He stated that he was a black male, dark complexion. He had a goatee with gray hair in it. He had a shiny green Eagles jacket on, from the football team, that he had an Eagles hat on that was a knit material. He was wearing dark gray or black sweatpants. And he was a thin build and in his early 40s.

Q. And did you obtain surveillance video from Anna's Linens?

A. Yes, I did.
Q. What did you do with it?
A. I turned it over -- we have two detectives that are certified by the FBI to create videos to be able to place on YouTube on our YouTube channel and they're usually the videos that you will see on the news. I gave the original copy of the video to one of those detectives. They made the video version for the YouTube channel which is just cut down for time, basically, and there's a couple still pictures taken so you can focus on the individual who committed the crime so you can ID them. And he put that video up on YouTube and then returned the original disk to me.
Q. Did anyone contact you as a result of the posting of that video?
A. Yes, they did.
Q. And who did?
A. Detective Gino Andracchio from Central Detectives.
Q. And what did he tell you?
A. He told me that he had had a robbery earlier in the day on that day. He had -- he had a robbery earlier on the day of occurrence of my robbery downtown where a male that appeared to be the same male had committed a robbery at a Subway store in his

division in the city.

Q. And what did you do with the information that Detective Andracchio told you?

A. He gave me a name and I took his name and put the name and ID number into the police department's photo imager system. And it generated a photograph of the man sitting at the defense table. I put the -- I put that picture in a photo array with seven other photos of a person with similar appearance and build and took that photo array to Ezekiel Logan, to his house, and had him look at the photo array. He recognized the male, the defendant, as the person that had come into the store and robbed him that night. I had Mr. Logan sign the photo array identifying the male that had robbed him, did a two sentence -- two question interview with him and returned to my headquarters and submitted an affidavit for Mr. Robinson's arrest.

Q. For what?

A. For robbery -- robbery with a handgun, prior conviction with a handgun. He's not allowed to be in possession of --

MS. MACEOIN: Objection, Your Honor.

BY MS. LINEHAN:

Q. And if I could, Detective Flacco, if I could show you --

THE COURT: Forget that.

BY MS. LINEHAN:

Q. If I could show you --

THE COURT: Jurors, disregard what you just heard.

BY MS. LINEHAN:

Q. If I could show you what's been marked as Government's Exhibit 19, can you identify that?

A. Yes, I can. This is the original photo array that I made up and took to Mr. Logan's house for him to view.

Q. And is that what you described that you used this photo imaging system that the police department has to put that array together?

A. That's correct.

MS. LINEHAN: Your Honor, I'd move for the admission of Government's Exhibit 19 into evidence.

THE COURT: That's the photo array.

MS. MACEOIN: No objection, Your Honor.

MS. LINEHAN: Permission to publish it to the jurors?

THE COURT: Go ahead.

BY MS. LINEHAN:

Q. And can you explain what happened with the victim, Ezekiel Logan, when you showed him Government's Exhibit 19?
A. I met Mr. Logan on his front porch of his house. It was about 10:30 in the morning in the daylight. And Mr. Logan took the photo array. I asked him if there was anybody in the photo array that he recognized. He looked at it for 30 seconds to a minute and pointed out Mr. Robinson who is the second photo on the bottom row in which case I told him -- I asked him where he knew that male from. He said he was the male who robbed me at the store. And I had him circle the picture and sign it and date it.
Q. And did that occur on December 11th --
A. That's correct.
Q. -- 2012? And is that approximately 10 days after the robbery?
A. That's correct.
Q. Did Ezekiel Logan hesitate at all in picking out the defendant as the individual that robbed him?
A. No.
Q. Did you do anything when you showed him Government's Exhibit 19 to suggest to him that the defendant was, in fact, the man that robbed him?
A. No, I did not.

Q. When -- you indicated to the jurors that you had obtained a surveillance video from Anna's Linens. I'd like to now show you what's been marked as Government's Exhibit 6. Do you recognize this CD?

A. Yes, I do.

Q. And is that a CD of the surveillance footage that you provided to the U.S. attorney's office as purposes of this prosecution?

A. Yes, it is.

Q. And in preparation of this case, did the U.S. attorney's office also download the information onto the computer system to be played for the jurors?

A. Yes, they did.

Q. And I'd now like to show you what's been marked as Government's Exhibit 6A, if you could just look at your screen.

MS. LINEHAN: Okay. Let's play it just a little bit.

BY MS. LINEHAN:

Q. We're just going to play you the beginning of it, Detective, to see if you recognize Government's Exhibit 6A.

A. Yes, I do.

Q. And what is that?

A. That is a camera view of the Anna's Linens store on Chelten Avenue.

MS. LINEHAN: Okay. Just pause it there. And if we could go to 6B and just play the beginning of that.

BY MS. LINEHAN:

Q. And what is that?

A. That is a view of the front doors of the Anna's Linens store from inside the store.

Q. So am I correct --

MS. LINEHAN: And if you could pause it, Agent Carpenter.

BY MS. LINEHAN:

Q. Am I correct that you -- there was information from two camera angles, one being the cash register and one being the entrance, is that right?

A. That's correct.

Q. Okay. So that would be Government's Exhibit 6A and 6B.

MS. LINEHAN: Your Honor, I'd move for admission of 6, 6A and 6B.

MS. MACEOIN: No objection, Your Honor.

THE COURT: Admitted.

BY MS. LINEHAN:

Q. Now 6C -- Detective Flacco, have you reviewed a video which is essentially the purchase and robbery that occurs in the Anna's Linens store with non-pertinent parts removed? Have you reviewed that? That's Government's Exhibit --

A. Yes.

Q. -- 6C.

MS. LINEHAN: Your Honor, at this time, I'd move for admission of 6C and play the video to the jurors.

MS. MACEOIN: No objection, Your Honor.

THE COURT: Okay. Play the video.

THE WITNESS: That's wrong.

THE COURT: Hold, hold, hold -- what are you doing? You got to put it up on the screen for the jurors.

(Pause)

(Surveillance video played for jurors)

BY MS. LINEHAN:

Q. Now I'd like to show you, Detective Flacco, what's been marked as Government's Exhibit 7. It should appear on your screen before I move it into evidence. Do you recognize that photo, Detective?

A. Yes, I do.

Q. And what is that?

A. It's a still photo of the defendant entering the Anna Linens

MS. SCOTT: Objection to the defendant entering, Your Honor. The person who entered the store. The jury makes that determination.

THE COURT: Speech for itself. Go ahead.

MS. LINEHAN: Your Honor, at this time, I -- it's a still photo of the video. I would move to publish -- and, Your Honor, I'm going to do this with Government's Exhibits 7 through 10. All of those are still photos from the exhibits. And I'll move through them very quickly.

THE COURT: Okay.

MS. LINEHAN: Government's Exhibit 7, if we can publish to the jurors?

BY MS. LINEHAN:

Q. And, Detective Flacco, you testified that that was a still photo from that video, is that right?

A. That's correct.

Q. Government's Exhibit 8. And what is that, sir?

A. That's a still photo taken from the video.

Q. Okay. And Government's Exhibit 9. Now I'd ask you, Detective, to look at the footwear of the person that robbed the Subway store. I'm going to show you what's been marked as Government's Exhibit 3.

Have you had an opportunity, Detective, in the course of investigating the Anna's Linens robbery, to compare the footwear that was worn by the person that robbed the Subway store and the footwear that was worn by the person that robbed the linen store on the same evening?

A. Yes, I have.

Q. And what, if anything, did you conclude?

A. They appear to be the same sneakers, same pair of New Balance sneakers.

Q. And just so the record is clear, the sneakers that are before you are Government's Exhibit 3.

MS. LINEHAN: Moving --

THE COURT: Yes?

THE WITNESS: Yes. I'm sorry, Your Honor. Yes, they are.

BY MS. LINEHAN:

Q. Detective, I'd also like to show you what's been created for the jurors in this case which is a blowup of a still photo. Have you had the opportunity to compare the Subway video to the video that you obtained in your investigation of the robbery at Anna's Linens?

A. Yes, I have.

Q. And have you had an opportunity to review the still photos that were created from the robbery of the Subway store?
A. Yes, I have.
Q. And what, if anything, did you conclude based on your years of experience about the individuals that appear in both?
A. Start from the top, the male in both photos appears to be wearing the same type of hat with the same type of emblem on the front of the knit ski hat. Their facial features are very similar. They have a very similar build. From watching both, I've been able -- the sneakers are the same.
Q. I'd now --
A. And -- oh, I'm sorry. And also, in the Subway video, he's holding onto a -- it appears to be a black handgun, semi automatic, which was also described by my victim in the Anna's Linens robbery.
Q. Now, in your view -- in your review of the video from Anna's Linens, were you ever able to see a gun?
A. No, ma'am.
Q. And why is that?
A. Just from the camera angles. Between the counter and the cash register and other items around

the cashier's area, you could never see the defendant -- I'm sorry -- the man in the store's waistband.

Q. Now I'd like to show you what's been marked as Government's Exhibit 1D. Now you did testify, Detective, that in your investigation, you've had opportunity to view both videos. This is now, 1D, just a small segment of the Subway video. And I'd ask for you to just take a quick look.

MS. LINEHAN: Your Honor, I'd move to admit and publish 1D.

THE COURT: We already (indiscernible) 1D, didn't we?

MS. LINEHAN: No, Your Honor. This is just a small clip for purposes of the detective's testimony. It's not the whole video.

THE COURT: Well, didn't we see the whole video?

MS. LINEHAN: Right, Your Honor. But I'm just --

THE COURT: Well, then if we've already admitted the whole video, you're isolating on one part. So go ahead.

MS. LINEHAN: Thank you, Your Honor. 1D?

(Small segment of surveillance video from Subway played for the jurors)

MS. LINEHAN: Okay. Stop it there. And then 1E.

(Small segment of surveillance video from Subway played for the jurors)

BY MS. LINEHAN:

Q. Detective Flacco, based on your investigation in its entirety, your meeting with the victim, your revealing the evidence including the two videotapes and the segments that you've just seen, what, if any, similarities did you notice between the two robberies that occurred on the same evening?

A. Again, the appearance of the male, the clothing -- some of the clothing that the male in the video is wearing, a black semi automatic handgun held low at the waist level in the Subway robbery. He also made purchases at both locations before he announced the robbery.

Q. And when he made those purchases, Detective, based on your investigation, was there any similarity in the phrase that he used after he made the purchase and when he committed the robbery?

A. He -- he said to my complainant, Mr. Logan -- he turned around and said, "Do me a favor. Give me the money." And from what I understand, he also made a comment of "Do me a favor" to the Subway employee before he committed that robbery -- before he announced the robbery.

MS. LINEHAN: No further questions, Your Honor.

THE COURT: Cross-examine.

MS. SCOTT: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. SCOTT:

Q. Good afternoon, Detective Flacco.

A. Good afternoon.

Q. Sir, you were first contacted by Detective Andracchio how long after the Anna's Linens robbery?

A. I would say it was probably on the 10th.

Q. December 10th?

A. Yes.

Q. So we're talking about nine days after both Anna's Linens robbery and the Subway robbery.

A. That's correct.

Q. When was the first time that you actually had contact with Ezekiel Logan? Was it the same day as the robbery at Anna's Linens?

A. The day of the robbery, December 1st.

Q. And were you one of the first officers to

arrive at the Anna's Linens?
A. No, I was not.
Q. About how long after the robbery took place did you actually arrive?
A. It's 45 -- it's approximately 45 minutes later after the robbery I arrived on location.
Q. When you got to that location, the crime scene log had already been started, is that right?
A. That's correct.
Q. And the officers who were the first responding officers had not only started that crime scene log but had signed in, is that right?
A. I'm sorry. Had --
Q. The crime scene log --
A. Right.
Q. -- had been started by one of the first responding officers, right?
A. Yes, ma'am.
Q. So Officer Washington who was one of the first responding officers would have signed in that log, right?
A. Correct.
Q. And Officer Harris also would have signed in that log?
A. That's correct.

Q. Right? And the purpose of a crime scene log is to determine who comes into the store and what evidence, if any, is taken from the store, is that right --
A. That's --
Q. -- or from the actual crime scene, right?
A. That's correct.
Q. And you, as one of the detectives or one of the lead investigators during this case, part of your job would have been to also collect evidence if there had been some, is that right?
A. That's correct.
Q. And part of your duties would have been to, if there were fingerprints, to collect that, is that right?
A. That's right.
Q. And you actually did process this crime scene for fingerprints, is that right?
A. No, I did not.
Q. You did not?
A. No.
Q. Do you recall writing a report in this matter?
A. Yes, I did. Oh, I'm sorry. It's processed for fingerprints but that doesn't necessarily mean

that fingerprint powder was put out. If there's no prints out, I won't spread fingerprint powder all over everything.
Q. Who would be responsible for actually putting the fingerprint powder down?
A. In a commercial robbery? Myself or if one of the scene detectives went to the location. That night it was myself.
Q. Okay. And you're saying in this case, neither you or anyone else put powder down.
A. Correct.
Q. Could you take a look at the black binder in front of you? Do you have that in front of you?
A. Yes.
Q. Under tab L. Are you opened to tab L?
A. Yes, ma'am.
Q. And do you recognize what that is in tab L?
A. Yes, ma'am.
Q. Is that the 7549 prepared in this matter?
A. That -- that's correct.
Q. And, Detective Flacco, are you named as the investigating officer in the 7549? Investigating detective --
A. Yes.
Q. -- I'm sorry.

A. Yes, I am.
Q. And are you responsible for preparing the 7549 in this matter?
A. Yes, I am.
Q. Could you please let the ladies and gentlemen of the jury know exactly what a 7549 is?
A. A 7549 is our investigative report and it lists what actions we've taken, any witnesses' names and information, any suspects or, if there is an arrest, any defendants' names or information. Interviews or references to interviews, where they could be found in the original case files.
Q. And, Detective Flacco, if you could please turn to the third page of the 7549 prepared in this case?
A. Okay.
Q. Do you see at the bottom where there is a section titled "Actions Taken"?
A. Correct.
Q. And do you see the second question under "Actions Taken"?
A. Correct.
Q. Could you please read that for the jury?
A. It says "Crime scene fingerprinted. None obtained." And it says "Yes".

Q. So am I to understand from a 7549 that there were crime scene -- that the crime scene was fingerprinted but no fingerprints were taken?

A. It's actually -- because it's all formatted, it's actually a bad statement. If I go in and I look for fingerprints at a scene, and you can use light and look obliquely and you don't see fingerprints, that's also a process for locating fingerprints. It doesn't actually mean that the fingerprint was lifted. But it means that I did look for fingerprints.

Q. And none were found in this case.

A. That's correct.

Q. And you would agree with me that the person who committed the robbery on December 1st didn't have gloves on, right?

A. I did -- I would agree with you, correct.

Q. And, in fact, that individual was at that countertop moving around to obtain the pillow that we saw in the video, right?

A. Correct.

Q. And also moving around so that he could obtain the money that was given by the complainant in this case, is that right?

A. Correct.

Q. When you got to the scene, you saw Mr.

Logan. And there was also another individual who was also in the store, is that right?
A. There was an employee back in the office. I did not talk to him.
Q. Okay. Was that individual present during the actual robbery? Inside the store itself, not in the office.
A. No.
Q. Are you aware that there was also a customer that was inside the store at the time of the robbery?
A. Yes, ma'am. There was a -- what was described to be a black female.
Q. Were you able to take a statement from that individual?
A. No. She was gone by the time I arrived. I don't know if she was still there or not when the police arrived. I had no way to obtain who she was.
Q. Okay. You indicated that when you got to the store, you took a statement from Mr. Logan and he gave you a description of the individual who came in to rob the store, right?
A. That's correct.
Q. And that description was "Black male, goatee with gray hair, an Eagles knit hat and a shiny Eagles jacket", is that right?

A. That's correct.
Q. And as far as you know, none of those items, the knit hat or a shiny Eagles jacket were recovered, is that right?
A. That's correct.
Q. You indicated that there was 750 dollars that was taken.
A. I believe it was 750 dollars.
Q. Is that an accounting -- was there an accounting done of what was in the register? How is it that you made that determination?
A. Originally, that night I believe, if it's on the original police report, that it was just a random determination of about what was in there. We actually got a count, I believe, the next day or two days later.
Q. Okay. And was it, in fact, the exact amount, 750 dollars?
A. May I check the 49, please?
Q. Sure.
A. Yes, 750 dollars.
Q. And, in fact, that 750 dollars was given to the individual who robbed the store in large bills, is that right?
A. They -- he did not want any of the ones. He

wanted the other bills in the register but did not want any ones. He stated that.

Q. So we're talking fives, tens, twenties, fifties and possibly hundred dollar bills.

A. Correct, possibly.

Q. And as far as you know, there was no currency found on my client, Mr. Robinson, the next day when he was arrested, is that right?

A. Yes. I didn't know that he was arrested the next day. I didn't know that he had been arrested till, I believe, it was December 10th.

Q. But you know that now --

A. Yes.

Q. -- right?

A. Yes.

Q. And as far as you know, there was none of that currency found on Mr. Robinson.

A. That's correct.

Q. Did you obtain the video that was in Anna's Linens, the exact -- or the actual date -- on the actual date of the robbery?

A. No, ma'am.

Q. When did you actually obtain it?

A. I believe it was Monday. Sunday, I don't think they get -- they had to have somebody from their

management come out to be able to make a copy of the videotape. The employees don't have that type of access to the tape.
Q. When you say Sunday, was the robbery on a Saturday or a Sunday?
A. Saturday. The robbery was on a Saturday.
Q. Okay. So --
A. So I believe it was Monday that I returned to the store to pick up a copy of the video.
Q. And is that when you gave it to the technical --
A. Yes. That's --
Q. -- police officers I'm going to call them --
A. No, that's fine.
Q. -- to --
A. Yes. That's correct.
Q. -- to make for YouTube.
A. Yes.
Q. And how long after that did you talk to Detective Andracchio?
A. It was the 10th. So seven days later.
Q. And how long after you actually spoke with Detective Andracchio did you make this photo array that we saw that was Government's Exhibit 19?
A. I made it that morning when I first got to

work. The next morning -- I'm sorry -- on December 11th when I got to work.

Q. Do you have that photo array in front of you?

A. Yes, I do.

Q. Take a look at that, please. Government's Exhibit 19. When you made the photo array in this case, you first started with a picture of Mr. Robinson, is that right?

A. That's correct.

Q. And could you tell the ladies and gentlemen of the jury how it is that you determined the other seven photos that are going to be placed in the photo array?

A. Okay. Within the imaging system that we use, you'll put in physical -- you can put in other names but you'll put in physical -- in this case, physical characteristics. I put in for a black man, thin build, maybe 150 pounds, 5'7" to 5'9" with facial hair. And the computer generates a group of photos, probably in the thousands sometimes. And you go through and pick and have them randomly insert the pictures into the photo array.

Q. So it's fair to say that you didn't put into any sort of parameter into the computer that you want

somebody with gray goatee, is that right?
A. You can't do that with -- you can't -- in our system, you can put in different color hair, gray, salt and pepper, black, blonde. But when it comes to facial hair, you cannot disseminate between different colors.
Q. So the answer would be no then.
A. Correct.
Q. And it's fair to say that you also didn't put in for any parameter when you were selecting the other photos whether the person would be medium completed, dark completed or light completed as a black male, is that right?
A. Correct.
Q. But you did see that you put it in based on age.
A. Yes.
Q. You never actually came into contacts with my client, is that right?
A. That's correct.
Q. When you went to Mr. Logan's house to show him the photo array, you indicated that you told him that you were going to show him a photo array and he should pick out someone if he saw someone that he recognized, is that right?

A. I didn't quite put it like that. I stated to him -- I handed him the photo array and asked him if there was anybody in the photo array who he recognized.

Q. Okay. Was there anybody else with you when you made that -- when you showed him --

A. No.

Q. -- the photo array?

A. No.

Q. Where exactly physically were you located at his home?

A. On his front porch at his residence.

Q. Were there other individuals there?

A. No, there was not.

Q. And you said it took him about 30 seconds to a minute to actually say that he recognized someone, is that right?

A. That's correct.

Q. At one point during your direct examination, Ms. Linehan asked you to make comparisons between the video that you saw from Anna's Linens and the video that you saw at the Subway store. Do you remember that?

A. Yes.

Q. And you indicated that what you saw or what was similar was -- at least one of the things was the way that this male was -- had a gun at his waistband, is that right?

A. Correct.

Q. And it's fair to say that you never saw a gun in the video for Anna's Linens, right?

A. That's correct.

Q. And you indicated that the reason for that is because there was a counter or there was a display that was in the way of the camera.

A. Correct.

Q. We did see during that video of Anna's Linens that, at some point, the male moved away from the counter and turned where the cash register was, is that right?

A. That's correct.

Q. And even during the time that the person moved away from where they were initially located and to the second spot, closer to the register, we didn't see a gun, is that right?

A. That's correct.

Q. And you never saw a gun, right?

A. That's correct.

Q. And, in fact, you never see the man's hands even during the time that he's in the store or close

to the counter, is that right?
A. No. There is one point when he steps to the right, he reaches his arm and his hand over across the counter. So you do see his hand over the counter.
Q. Is that his right hand or his left hand?
A. It's his right hand.
Q. And you don't see a gun in it.
A. No, I do not.
MS. SCOTT: I have no further questions. Thank you, Detective Flacco.
THE WITNESS: You're welcome.

REDIRECT EXAMINATION

BY MS. LINEHAN:
Q. Detective Flacco, why didn't you dust the entire store with fingerprint dust when you responded to Anna's Linens?
A. There's several -- several reasons why. First off, certain materials cannot be fingerprinted. Glass is great; wood is terrible. And it's very hard if you can pick up fingerprints at all. Same as door handles. Depends on the texture of the door handle and everybody touches the door. You're going to have smears, you're going to have hundreds of fingerprints.
The other reason is fingerprint powder is very intrusive. It's also considered somewhat toxic.

And once you fingerprint something, it's almost impossible to get the powder off. I've ruined more sets of shirts and pants doing it. And people complain if you print their houses in a burglary. Well, I can't get this out. I'm sorry but you just can't. It's very intrusive into the material that you print. So I don't want to ruin a store's counter or somebody's living room by putting this powder all over the place if there's no fingerprints which you can see -- if you look at a surface from the side, you can see fingerprints on the surface when you have what they call an oblique light trained to that surface. So if there -- if you don't see any or you just see smears, there's no sense in putting the powder all over the place.

MS. LINEHAN: Nothing further, Your Honor.

MS. SCOTT: I have nothing further.

THE COURT: All right. You're excused.

THE WITNESS: Thank you, Your Honor.

THE COURT: Next witness.

MS. LINEHAN: Your Honor, the government will call Ezekiel Logan.

(Pause)

THE COURT: Come on up.

THE REPORTER: Please raise your right hand.

EZEKIEL LOGAN, GOVERNMENT'S WITNESS, SWORN

THE REPORTER: Please state your name for the record and spell your name, please.

THE WITNESS: Ezekiel Logan.

THE REPORTER: Thank you.

DIRECT EXAMINATION

BY MS. LINEHAN:

Q. Mr. Logan, were you working for Anna's Linens store on December 1st, 2012?

A. Yes.

Q. And, sir, how long had you worked for Anna's Linens on December 1st, 2012?

A. For two years.

Q. And what did you do for that store?

A. I started off as a cashier then worked my way up as a supervisor.

Q. And what types of shifts did you work?

A. Mostly when I was a cashier, I worked four to six hour shifts.

Q. And if I could direct your attention to December 1st, 2012, was your store robbed?

A. Yes.

Q. What time did you come in that evening?

A. Three o'clock.
Q. And what shift were you expected to work?
A. Evening shift.
Q. Mr. Logan, how much money did you make for Anna's Linens on December 1st, 2012?
A. Ten dollars an hour.
Q. And what are you currently doing for a living?
A. I am now working at Rite-Aid.
Q. And, Mr. Logan, when you were working on December 1st, 2012, was your store robbed?
A. Yes.
Q. When it was robbed, were there any other employees working with you?
A. Yes.
Q. Who?
A. A supervisor.
Q. And what was his name?
A. Dante -- Dante -- I don't know his last name.
Q. So was Dante present when you were robbed?
A. Yes.
Q. Where was he in the store?
A. In the back. In the back office.
Q. All right. Now can you describe for the

ladies and gentlemen of the jury exactly what happened when you were robbed?

A. Sure. When I rung the person up, I gave him -- I run him up for a seat cushion. And before he walked away, he told me to do him a favor and open the register. And I didn't hear him the first time. And then he told me to -- he told me to open the register while holding a gun to my side. And afterwards, I gave him the money; I said okay. And he didn't want to hurt me. He said -- and around the time, I was kind of shaky. So I stalled a little bit. And that's when he started counting down.

Q. What do you mean he was counting down?

A. Well, he wanted -- he was counting down to 5 before I opened the register.

Q. And what does that mean to you when he was counting down?

A. That he was going to shoot me.

Q. And when you said you -- well, first of all, let's talk about the purchase. When the individual made the purchase, how far were you from him when he purchased the pillow or the cushion?

A. Well, right across, like two inches away, literally.

Q. Was there anything between you and the

person purchasing the pillow?
A. The counter.
Q. All right. Was there anything between your face and his face that would have obstructed your ability to see his face?
A. No.
Q. When this individual purchased the seat cushion from you, were you afraid at that point?
A. Yes.
Q. Let's go back to the seat cushion part. When he made the purchase, were you afraid, not the robbery?
A. No. No.
Q. Okay. Would you have any reason to be afraid of a person making a purchase of a seat cushion?
A. No.
Q. Did you look at his face?
A. Yes.
Q. And were you distracted by anything in the store at that time?
A. No.
Q. Was the store crowded?
A. No.
Q. Now after the person made the purchase of

the seat cushion, what did they do next?

A. Afterward, he -- before -- he was about to walk out the store. He turned around and he asked if I can -- if I can do him a favor. And I said what. And he said open the register. Afterwards, I said, "Excuse me?" And he said, "Open the register" with the gun on the side of the counter.

Q. And explain to the jurors what you saw when you saw the gun?

A. I saw a -- I saw the tip of the barrel. It was all black. And that's when I turned around really quick 'cause I was a little startled. And then I started trying to open the register.

Q. And were you able to open the register?

A. Yes.

Q. And did you get money out of the register?

A. Yes.

Q. Did the individual give you any instructions on what kind of money he wanted?

A. Yes.

Q. What did he say?

A. First, he said take out the ones, then the fives -- no. Sorry. Let me repeat that. He said, let me take that -- he said "Take out the 20s, the 10s and the 5s. And also the ones."

Q. How did you feel when he was directing you to take the money out and you had the gun pointed at you?
A. Scared.
Q. Why?
A. 'Cause there was a gun. That was the first time a gun was pointed at me. I didn't know what to do after that.
Q. Did the gun look like a toy to you?
A. No.
Q. Did it look like a water pistol?
A. No.
Q. Did it look like a BB gun?
A. No.
Q. What did it look like?
A. It looked like a real black gun.
Q. And why do you say that?
A. Because it was shiny. I've seen a toy gun before. I've never seen anything like that before.
Q. Where did the defendant --
MS. LINEHAN: Strike that, Your Honor.
BY MS. LINEHAN:
Q. Where did the individual who was robbing you keep the gun when you were taking the money out of the register?

A. On his waistband.

Q. Could you see it?

A. Yes.

Q. Now the person that robbed you with this gun, I'm going to ask if you see that person in this courtroom, if you could point him out, please.

A. Uh-huh.

Q. And what is he wearing, Mr. Logan?

A. A blue shirt.

MS. LINEHAN: Your Honor, let the record reflect the in-court identification of the defendant by Mr. Logan.

BY MS. LINEHAN:

Q. Mr. Logan, I'd like to show you now what's been moved into evidence as Government's Exhibit 6C. But before I do that, sir, have you been made aware that there was a video of the robbery from the surveillance camera that your store had that night?

A. Yes.

Q. And have you ever been shown that by any of the police officers or the detectives in this case?

A. No.

Q. Now I'd like to show you what's been moved in as Government's Exhibit 6C. And I'm going to pause it at different points and just ask you to explain.

Is that okay?
A. Uh-huh.
Q. Okay.
(Videotape of surveillance camera played for the jurors)
MS. LINEHAN: Okay. If we could stop it there.
(Videotape paused)
BY MS. LINEHAN:
Q. Mr. Logan, is that the entrance to your store?
A. Yes.
Q. Is there any other entrance?
A. No.
Q. And who is the individual that just walked into the store?
A. The robber.
Q. Okay.
(Resume playing of videotape)
BY MS. LINEHAN:
Q. Now who is in this part of the video? Is that you?
A. Yes.
Q. And what are you doing?
A. I'm welcoming him into the store and asking

him if there's anything he needed.
Q. And what are you doing with the --
MS. LINEHAN: Just pause it there.
(Videotape paused)
BY MS. LINEHAN:
Q. What were you doing with the other customer?
A. I was helping him. He was -- I was finishing his purchase.
MS. LINEHAN: Okay. Go ahead.
(Resume playing of videotape)
MS. LINEHAN: Stop it right there.
BY MS. LINEHAN:
Q. What's happening in this part of the video, Mr. Logan?
A. That's when I rang him up with the pillow -- the seat cushion.
(Resume playing of videotape)
BY MS. LINEHAN:
Q. Did he pay you for the seat cushion?
A. Yes, he did.
(Resume playing of videotape)
BY MS. LINEHAN:
Q. Was there anything about that transaction that was unusual to you?
A. No. I just thought he was in a hurry.

That's why I thought he was standing right there. I thought he was in a hurry.

Q. For the seat cushion?

A. Yes.

(Resume playing of videotape)

MS. LINEHAN: Stop it there. Okay. Go ahead.

THE WITNESS: Okay. That's when right here, he, like, "Let me do you a favor."

BY MS. LINEHAN:

Q. And when did you see the gun?

A. It -- not -- right after he, like, kind of looked down. And right when I walked over to the register, that's when I was trying to get the money out.

Q. And how did you feel?

A. Scared.

(Resume playing of videotape)

BY MS. LINEHAN:

Q. And what are you doing here?

A. I was kind of panicking a little bit because, like, that's when he was counting down because I actually told him that I had to get a supervisor. And he said that I don't have to do anything and just try to get the money out of the register. And that's when he started counting down. And that's when he's walking over to here. When he walked over there, that's when he put the gun away.

Q. Where did he put the gun?

A. Back in his waistband.

Q. How do you know that?

A. I seen -- I didn't see the gun anymore after that.

(Resume playing of videotape)

BY MS. LINEHAN:

Q. What is he doing or saying at this point?

A. That's when he was asking me what was taking so long. And then, like, as he was walking out, he was, like, "I'll remember" -- "I will remember your name, Ezekiel" as he's walking out the door.

(Resume playing of videotape)

MS. LINEHAN: Stop it there.

BY MS. LINEHAN:

Q. And when you say he said, "I'll remember your name, Ezekiel" --

A. Uh-huh.

Q. Well, first of all, Mr. Logan, did you have your name displayed on any part of your uniform?

A. Yes.

Q. And in your job at Rite-Aid now, do you have your name displayed on your uniform?

A. Yes.

Q. So that night when you were working at Anna's Linens and he said "I'll remember your name, Ezekiel", how did that make you feel?

A. Scared.

Q. And how has it made you feel since the robbery?

A. Scared.

Q. How much money did you give him out of the cash register, if you can remember?

A. It was a lot. I don't remember. I do know it was a lot.

Q. Did you tell the police how much it was that night?

A. I wasn't sure. I know my supervisor did.

Q. Okay. Did you empty the cash register for him?

A. Except the ones and the change that was in there.

Q. After the robbery on December 1st, did the police respond?

A. Yes.

Q. And did Detective Flacco come and take your statement?

A. Yes.

Q. Were you able to provide a description of the person who robbed you to Detective Flacco?

A. Yes.

Q. And at -- ten days later, did you ever have another meeting with Detective Flacco at your house?

A. Yes.

Q. And what happened in that meeting?

A. He made me look at some pictures to point out the robber.

Q. And I'd like to show you what's been marked as Government's Exhibit 19. Were you shown this?

A. Yes.

Q. And what were the circumstances when you were shown this by Detective Flacco? Where were you?

A. On my porch.

Q. And were you with anyone?

A. No.

Q. Was Detective Flacco with anyone?

A. No.

Q. And when he showed you this, do you remember anything that he said before he showed you it?

A. No. I don't remember he said -- he said there's nothing to be afraid of.

Q. How soon after he showed you this did you

pick out the defendant, Anthony Robinson?
A. Right afterwards. I knew the face. So --
Q. Was there any doubt in your mind, Mr. Logan, that this was the man that robbed you at gunpoint?
A. No.
Q. And did you sign it and date it per the Detective's request?
A. Yes.
Q. Did the detective say anything or do anything to help you pick out the defendant as the person that robbed you with a gun?
A. No.
MS. LINEHAN: Court's indulgence, Your Honor.
BY MS. LINEHAN:
Q. During the robbery, Mr. Logan, for how long would you say that you had the opportunity to see the defendant's gun in his waistband?
A. Could you repeat the question?
Q. Sure. How long during the video that we just saw would you say the defendant made you aware that he had a gun on him?
A. For a while. For like almost the whole robbery. Almost, I'd say, for, like, until he walked around the counter. And so, it'd be about a whole

minute.

Q. Can you stand up and show the jurors how he showed you that he had a gun on him?

A. Yeah. Like this.

MS. LINEHAN: Your Honor, let the record reflect that the defendant has indicated something in his hand by his waistband with his left hand.

BY MS. LINEHAN:

Q. Is that right, Mr. Logan? Did I say that correctly?

A. Yes.

Q. And --

THE COURT: You can sit down.

MS. LINEHAN: Thank you.

BY MS. LINEHAN:

Q. Does the -- the events that occurred on December 1st, 2012, have they affected you at all in your current employment or since then at Rite-Aid or any other stores that you've worked in, Mr. Logan?

A. No, not really.

Q. How do you feel about working in these stores now that you've been robbed?

A. More cautious.

MS. LINEHAN: Nothing further, Your

Honor.

THE COURT: Cross-examine.

MS. SCOTT: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. SCOTT:

Q. Good afternoon, Mr. Logan.

A. How you doing?

Q. Sir, when the gentleman came into the store who eventually robbed that store, you indicated that you were working with another customer, is that right?

A. Yes.

Q. And you indicated that you gave some sort of greeting, welcome to Anna's, or something to that effect, is that right?

A. Yes.

Q. And I imagine that's something that you're trained to do when customers come in through the door?

A. Yes.

Q. But at the time that he actually came into the door, your focus was on the customer that you were working with at the register, is that right?

A. Yes.

Q. And so, it's fair to say that it wasn't until that individual actually came to the register to make the purchase that you first sort of paid

attention to him, is that right?
A. No. I got a good look of his face when I greeted him when he came in.
Q. Okay. So at the time that the individual came to your register, though, with the seat cushion, you began to ring him up.
A. Yes.
Q. Were there other customers before him?
A. I did see another lady in the store.
Q. Were there other actual customers before him before you took his purchase?
A. Yes. It was the one. Uh-huh.
Q. Okay. So there was -- would you say a line before --
THE COURT: There's no line.
THE WITNESS: No, no.
THE COURT: We saw the video.
THE WITNESS: Not a line.
THE COURT: One customer.
MS. SCOTT: Okay, Your Honor.
THE COURT: All right.
BY MS. SCOTT:
Q. So when the individual actually paid for the seat cushion, it's fair to say your focus was on getting the seat cushion, getting the price tag and

then putting that seat cushion into the bag.
A. Yes.
Q. And ringing up the purchase, looking at the register itself, right?
A. Yes.
Q. And as you already indicated to Ms. Linehan, there was nothing really unusual about the purchase itself.
A. Not until he -- after the purchase.
Q. Okay. Not until after the purchase where he said "Can you do me a favor?", right?
A. Yes.
Q. And that's when you said that that individual then takes out a waist -- gun from his waistband, is that right --
A. Yes.
Q. -- or makes a motion with his waistband.
A. When he took the gun out of his waistband.
Q. And it's fair to say that at that point, your eyes would have been trained on the gun itself, right?
A. Yes.
Q. Because you were afraid --
A. Right.
Q. -- is that right? And it's fair to say that

your eyes would have stayed focused on that gun because you wanted him and that gun to be out of your store as soon as possible, is that right?

A. Right.

Q. And you were going to do whatever you could to make that happen, is that right?

A. Yes.

Q. And what that included is you turning around to the register and trying to get the money out right away.

A. Right.

Q. And that's what you did, right?

A. Yes.

Q. And we saw in the video where you began to work right away to get out all of the money that was in the register.

A. Yes.

Q. And it's fair to say that your eyes then were trained on the money itself and pulling out the money so that you could give it to that individual, right?

A. Yes.

Q. After you took the 20s, the 5s and the 10s out of the drawer, you then gave it to the individual, right? And he put the money in his pocket, right --

A. Yes.

Q. -- and walked out of the store.

A. No. He said something to me before.

Q. He said some --

A. He said "I'll remember your name" --

Q. Okay.

A. -- "Ezekiel" and then he left the store.

Q. You indicated that that was being said as the individual was walking out of the store.

A. Yes.

Q. As his back was to you, is that right?

A. As he was looking at me and walking out the store.

Q. You would agree with me that the whole purchase -- or, excuse me -- the whole incident, as it relates to the gun, would have taken less than 30 seconds or so, is that right?

A. About a minute, yes.

Q. And that your focus would not have been on the individual but on the gun and on the register, right?

A. But more than anything, more giving him the money to --

Q. More giving him the money.

A. -- walk out the store 'cause I was scared

that he had a gun to me.
Q. You said that you thought it was a gun because it was shiny, is that right?
A. Yes.
Q. You don't own a gun, right?
A. No.
Q. And the only reason why you thought it was a gun was because it was shiny.
A. Because I seen the barrel. I knew it was a gun 'cause I seen the barrel and I know what the gun looked like.
Q. You said that you saw the barrel but you couldn't see the grip or the handle of the gun.
A. No, I didn't.
Q. So what you saw was, what, about an inch?
A. From about the nose.
Q. Whatever this thing was.
A. The barrel, the barrel of the gun.
Q. Would you agree that what you saw was about an inch?
A. About an inch or so, yeah.
Q. Okay. So what you saw was an inch of something shiny and black.
A. Yes.
Q. Okay. After the robbery happened, you saw

Detective Flacco that same night, right?
A. Yes.
Q. And you gave Detective Flacco a description of the individual who came to your store that very same night, right?
A. Yes.
Q. And do you recall telling Detective Flacco that the individual was somewhere between 5'7" and 5'9"?
A. Yes.
Q. And was a black male --
A. Yes.
Q. -- with some gray in his goatee --
A. Uh-huh. Yes.
Q. -- with an Eagles jacket, right?
A. Yes. Uh-huh.
Q. And also an Eagles hat of some sort.
A. Yes.
Q. The next time that you saw Detective Flacco, was that when he came to your home with the photo array?
A. Yes.
Q. And you've seen, I assume, movies and television shows with photo arrays, right?
A. Yes.

Q. And you assumed that when Detective Flacco showed you the photo array that the individual who robbed your store would be in that photo array, is that right?

A. Yes.

Q. And that's why you picked someone out, isn't that right?

A. Yeah, 'cause I knew his face as soon as I seen the photo.

Q. Okay.

(Pause)

Q. It's fair to say you've never -- you never met my client, is that right?

A. No, I haven't.

MS. SCOTT: I have nothing further. Thank you, Mr. Logan.

REDIRECT EXAMINATION

BY MS. LINEHAN:

Q. Mr. Ezekiel (sic), you've identified the defendant as the person that robbed you, so although there was no formal introduction, did you see him on December 1st, 2012 when he pointed a gun at you and robbed your store?

A. Yes, I have.

MS. LINEHAN: Nothing further, Your

Honor.

MS. SCOTT: I have nothing further.

THE COURT: All right. Thank you, Mr. Logan. You may step down. Who's your next witness?

MS. LINEHAN: Your Honor, can I see you briefly at sidebar with counsel?

THE COURT: This is one of those moments that I just --

MS. LINEHAN: I know you do, Your Honor.

THE COURT: She didn't expect this case to move along this fast. She wants to beg me to wait until tomorrow for the next witness, is that correct?

MS. LINEHAN: Yes.

THE COURT: I've been here before.

MS. LINEHAN: Your Honor, we don't need the sidebar in light -- Your Honor, the government's remaining witness -- I do have a stipulation to read into the record --

THE COURT: Oh, well, let's do that. Get as much out of the way as you can.

MS. LINEHAN: I will. Your Honor, the government's remaining witness, which is the Subway victim, had a personal issue today --

THE COURT: No problem.

MS. LINEHAN: -- that made her unavailable.

THE COURT: I remember that person.

MS. LINEHAN: She is available to testify. We did our best to have her at 9 this morning. We've made contact with her, Your Honor. She's indicated she'll be available tomorrow morning but she had a personal problem today --

THE COURT: Okay. Read the stipulations.

MS. LINEHAN: I will do that, sir. Your Honor, Government's Exhibit 30 --

THE COURT: This is a stipulation. It means that both sides agree. Go ahead.

MS. LINEHAN: Thank you, Your Honor. "The United States of American, through Assistant United States Attorney Jeanine Linehan, and the attorney for Defendant, Anthony Robinson, Ms. Kai Scott, hereby agree to stipulate to the following:

"On or about December 1st, 2012, the Subway Restaurant, located at 545 North Broad Street in Philadelphia, Pennsylvania (otherwise known as "Subway"), was a business engaged in and affecting interstate commerce by providing customers food, beverages and other goods produced, purchased and transported from other states to Pennsylvania;

"That on or about December 1st, 2012, Anna's Linens store, located at 301 West Chelten Avenue in Philadelphia, Pennsylvania (also known as "Anna's Linens"), was a business engaged in and affecting interstate commerce by providing to customers bedding, bath, dining and other goods produced, purchased and transported from other states to Pennsylvania."

And it's signed by all parties. Permission to move this into evidence, Your Honor.

MS. SCOTT: No objection, Your Honor.

THE COURT: All right. It's admitted. Anything else?

MS. LINEHAN: No, sir.

THE COURT: Anything else for today?

MS. SCOTT: Nothing else, Your Honor.

THE COURT: Oh, you caught a break, ladies and gentlemen.

All right. We're going to adjourn for the day even though it's more than a half hour earlier than I normally stop. And you'll beat the traffic to some degree. And I'll see you back here tomorrow morning 9:30 sharp. All right? Sharp. Don't be late. And don't discuss this case with anybody, not each other, not your spouses, significant others, bus drivers, guys who drive cabs, nothing. And if you talk in your sleep, sleep in a different room.

(Jury out)

THE COURT: So tomorrow we have Headen. And is that it for you?

MS. LINEHAN: Yes, sir.

THE COURT: And who do you have?

MS. SCOTT: We may need to call one of the first arriving officers depending on what Ms. Headen testifies to.

THE COURT: Okay.

MS. SCOTT: I don't expect there to be much of a defense, though.

THE COURT: Okay. Listen. He hasn't made up his mind whether he wants to testify or not, right?

MS. SCOTT: That's right.

THE COURT: Okay. Read those instructions 'cause we're going to meet at 8:30 and I want to go over them 'cause some of them are not operative anymore. So we'll deal with it starting then. So --

MS. MACEOIN: Yes, Your Honor.

THE COURT: All right? You can leave

your stuff here if you want.

MS. MACEOIN: Thank you, Your Honor.

THE COURT: Have a good night.

MS. LINEHAN: Thank you, Your Honor.

THE COURT: See you tomorrow morning. 8:30. All right. I'll see you 8:30.

MS. LINEHAN: Yes, sir.

THE COURT: Okay.

(Court is adjourned)

* * * * *

C E R T I F I C A T I O N

We, Sherri L. Breach & Lisa Beck, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.

Sherri L. Breach, CERT*D-397

Lisa Beck (CET**D-486)

AAERT Certified Electronic Transcriber

DATE: April 15, 2015

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